FEDERAL IDENTIFICATION FRAUD

HEARINGS
BEFORE THE
PERMANENT
SUBCOMMITTEE ON INVESTIGATIONS
OF THE
COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
NINETY-SEVENTH CONGRESS
SECOND SESSION

JUNE 15 AND 16, AND SEPTEMBER 23, 1982

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FEDERAL IDENTIFICATION FRAUD

TUESDAY, JUNE 15, 1982

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met at 10:03 a.m., in room 3302, Dirksen Senate Office Building, under authority of Senate Resolution 361, dated March 5, 1980, Hon. William V. Roth, Jr. (chairman of the subcommittee) presiding.

Members of the subcommittee present: Senator William V. Roth, Jr., Republican, Delaware; Senator Warren B. Rudman, Republican, New Hampshire; Senator William S. Cohen, Republican, Maine; and Senator Lawton Chiles, Democrat, Florida.

Members of the professional staff present: S. Cass Weiland, chief counsel; Eleanore J. Hill, chief counsel to the minority; Katherine Bidden, chief clerk; Howard Cox, staff counsel; Karen Hainer and Julian Granger, staff investigators; Jack Key, chief investigator to the minority; and Roy Geffen, detailed investigator from the U.S. Postal Service.

[Member present at convening of hearing: Senator Roth.]

[Letter of authority follows:]

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
Washington, D.C.

Pursuant to rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the chairman, or any member of the subcommittee as designated by the chairman, to conduct open and/or executive hearings without a quorum of two members for the administration of oaths and taking testimony in connection with hearings on Federal Identification Fraud to be held on June 15 and 16, and September 23, 1982.

WILLIAM V. ROTH, Jr.,
Chairman.
SAM NUNN,
Ranking Minority Member.

OPENING STATEMENT OF SENATOR ROTH

Chairman ROTH. This morning the Permanent Subcommittee on Investigations will commence 3-day hearings into fraud and abuse in the issuance and use of Federal identification documents and the threat this poses to entitlement and other benefit programs.

For the last 10 months, our subcommittee has been conducting a study of the problems which surround U.S. passports and visas, INS green cards as well as social security cards and numbers.

This study clearly demonstrates that the cards are not a deterrent to waste and fraud in Government programs. Instead, they have too often become the key, the ticket for the dishonest to receive benefits to which they are not entitled.

As part of this study, we examined the issuance of these documents by Government officials, both in the United States and in embassies overseas. Again, our studies have shown that these documents are too often issued routinely rather than after adequate investigation.

We have also seen the uses which have been made of these documents by the people who have stolen them, altered them, or who have lied or bribed to obtain them. And the result of our investigation has led me to conclude that a growing, international criminal market exists for illicit Federal documents. Some may call it one of the most thriving cottage industries in America.

These documents are obtained by the dishonest who have illegally used them to enter the United States, remain here and then to obtain funds from various Federal programs, such as food stamps, student loans, and social security benefits. They have not only defrauded the Federal Government, but these same documents are used to defraud State agencies or State-funded programs.

These hearings will also show that these documents are used in sophisticated criminal conspiracies to defraud banks and credit card companies as well as other commercial establishments.

Even the most conservative estimates have concluded that hundreds of millions of dollars are lost annually to criminals who falsely use identity documents. The Justice Department, back in the middle 1970's estimated that as much as $15 billion a year could be lost through false identification fraud. These are figures that are hard to prove, but I think there is no question but that the loss is tremendous.

I think we can fairly say that in this case, ID means instant dollars, instant dollars for the bad guys and ineffective safeguards for the Government.

Despite the fact that the criminal population is well aware of these documents and the ease with which they can be obtained, the Federal agencies which are responsible for the documents continue to issue them with an appalling lack of awareness as to their criminal use.

We will see today that each of these documents can be easily counterfeited. Furthermore, if a person does not want to pay for a forgery, most of these documents can be obtained legally by an individual who has sufficient information to establish a fictitious identity.

We found that few of the Federal agencies which are responsible for paying out Federal benefits have given adequate consideration to the criminal uses of false identification.

Most of the agencies rely upon the face of the document and do not seek to verify the information with the issuing agency. And, seen in this light, it is pretty apparent why the Federal costs of these programs have escalated.

And just let me say the extent of the problem is enormous. For example, a recent pilot project between the Social Security Administration and the Immigration and Naturalization Service in Denver concluded that 50 percent of the INS documents presented to establish eligibility for social security cards and benefits were false—50 percent in just one pilot study.

[At this point, Senator Chiles entered the hearing room.]

Chairman ROTH. Let me just show a more graphic example of this problem which recently took place in Illinois. There, over a 4-month period, the Department of Motor Vehicles confiscated over 600 green cards. [Empties cards on table.] I think it appropriate to call them green cards because, frankly, it is so easy to turn them into fast cash.

[At this point, Senators Rudman and Cohen entered the hearing room.]

Chairman ROTH. We will commence our hearing with a brief overview by the subcommittee staff. We will then receive testimony from a convicted documents forger, from a forensic expert concerning the ease with which Federal identification documents can be produced and we will also hear from a former State Department investigator who will testify about that agency's lack of attention to document fraud.

Finally, today, we will hear from the Postal Inspection Service about a major mail fraud investigation they are pursuing which heavily involves false identities.

At this time, I would like to call upon Senator Rudman.

Senator RUDMAN. I don't have an opening statement, Mr. Chairman.

Chairman ROTH. Senator Chiles?

Senator CHILES. I will reserve my opening statement, Mr. Chairman.

Chairman ROTH. Senator Cohen said he has no statement. So we will, at this time, receive the PSI staff statement.

If Karen Hainer will please come forward.

Under the rules of our subcommittee, everyone must take the oath. So, Karen, please raise your right hand.

Do you swear the testimony you are about to give before this subcommittee is the truth, the whole truth, and nothing but the truth, so help you God?

Ms. HAINER. I do.

TESTIMONY OF KAREN HAINER, STAFF INVESTIGATOR, PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Chairman ROTH. Please be seated.

Proceed.

Ms. HAINER. Mr. Chairman, members of the subcommittee, I would like at this time to introduce the complete staff statement for the record and, for your benefit, I will just briefly summarize some of the highlights of our investigation which provide a framework for our hearings today.[1]

This investigation into Federal Government fraud and waste is one of a continuing series that you have asked us to undertake in the past year.

Our purpose in conducting an examination of the issuance of Federal identity documents and their misuse in federally funded benefit programs over a 10-year period was twofold.

First, to trace the extent to which counterfeit, altered, or fraudulently obtained documents are used to penetrate federally funded benefit programs and, second, to have a better understanding of the reliability of these identity documents as a secure means of identification.

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[1] See p. 173 for the staff's prepared statement.

With your permission, Mr. Chairman, I would like to introduce exhibit 1 for the record. This is a glossary of the identity documents we reviewed, namely U.S. passports, visas, alien registration cards issued by the Immigration Service, and the social security cards.

Chairman Roth. Without objection.

[The document referred to was marked "Exhibit No. 1," for reference, and follows:]

EXHIBIT NO. 1

GLOSSARY OF FEDERAL IDENTITY DOCUMENTS

This glossary is intended to serve as a brief introduction to certain forms of federally issued identification. A picture of each document and a brief description regarding its issuance and security features is included.

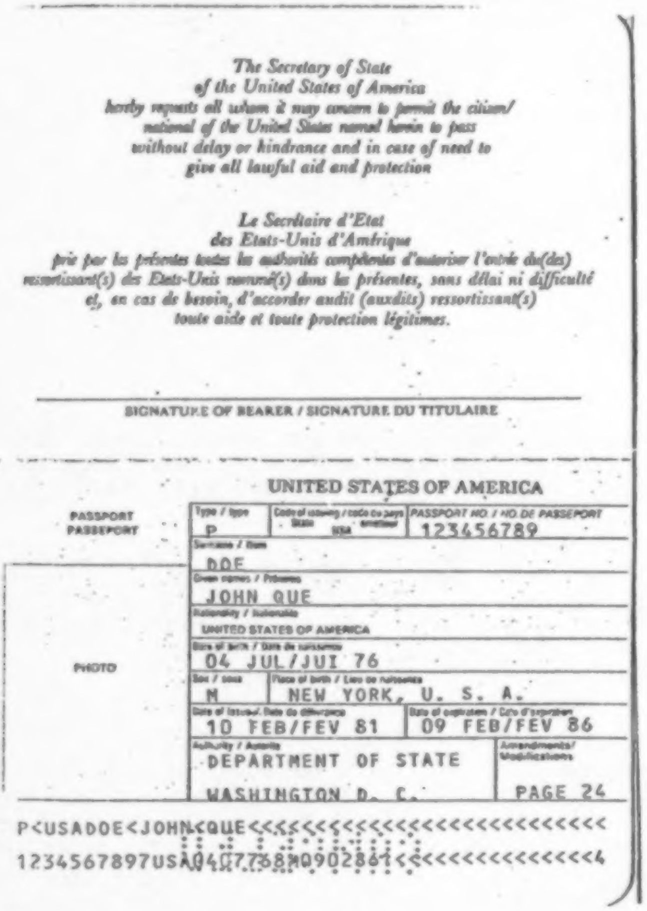
Document: U. S. Passport (New TDIS Version)

Issuing Agency: Department of State

Eligibility: U. S. Citizens

Method of Application: Person applies directly to Passport Agency or at Post Office or county courthouse. Applicant must present proof of U. S. citizenship (usually by birth certificate) and identity (usually by driver's license).

Security Features: Picture and personal identification information lamenated into front cover. Machine readable information is included.



The Secretary of State
of the United States of America
hereby requests all whom it may concern to permit the citizen/
national of the United States named herein to pass
without delay or hindrance and in case of need to
give all lawful aid and protection

Le Secrétaire d'Etat
des Etats-Unis d'Amérique
prie par les présentes toutes les autorités compétentes d'autoriser l'entrée du(des)
ressortissant(s) des Etats-Unis nommé(s) dans les présentes, sans délai ni difficulté
et, en cas de besoin, d'accorder audit (auxdits) ressortissant(s)
toute aide et toute protection légitimes.

SIGNATURE OF BEARER / SIGNATURE DU TITULAIRE

UNITED STATES OF AMERICA

PASSPORT
PASSEPORT

PHOTO

Type / type: P
Code of issuing State / code du pays émetteur: USA
PASSPORT NO. / NO. DE PASSEPORT: 123456789
Surname / Nom: DOE
Given names / Prénoms: JOHN QUE
Nationality / Nationalité: UNITED STATES OF AMERICA
Date of birth / Date de naissance: 04 JUL/JUI 76
Sex / sexe: M
Place of birth / Lieu de naissance: NEW YORK, U. S. A.
Date of issue / Date de délivrance: 10 FEB/FEV 81
Date of expiration / Date d'expiration: 09 FEB/FEV 86
Authority / Autorité: DEPARTMENT OF STATE WASHINGTON D. C.
Amendments/ Modifications: PAGE 24

```
P<USADOE<JOHN<QUE<<<<<<<<<<<<<<<<<<<<<<<<<<<<
1234567897USA0407768M0902861<<<<<<<<<<<<<<<<<4
```

Exhibit Ia

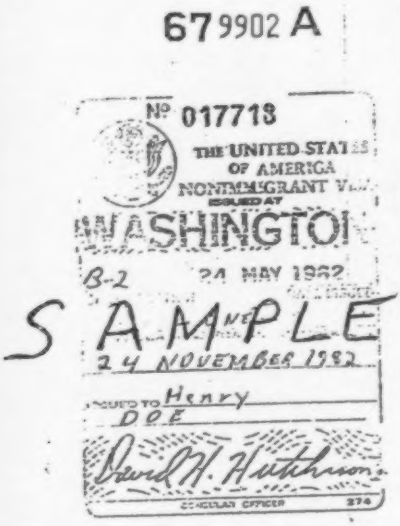
Document: U. S. Non-immigrant Visa

Issuing Agency: Department of State

Eligibility: Alien's admissible for non-immigrant purposes under the Immigration and Naturalization Act.

Method of Application: Person must apply at U. S. Embassy or consulate. Must provide proof of identity, citizenship and demonstrate purpose and duration of visit to U. S.

Security Features: Issued by secure printing equipment under control of Embassy officials. In high fraud posts, a counterfoil is added to the visa.


679902 A

Nº 017718

THE UNITED STAT
OF AMERICA
NONIMMIGRANT V
ISSUED AT
WASHINGTON

B-2
24 MAY 1982

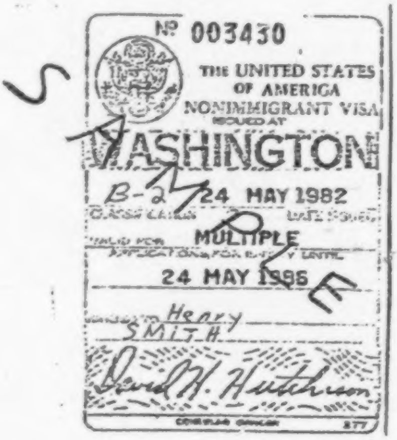
SAMPLE

24 NOVEMBER 1982

ISSUED TO Henry
DOE

David H. Hutchison
CONSULAR OFFICER 274

With Counterfoil


Nº 003430

THE UNITED STATES
OF AMERICA
NONIMMIGRANT VISA
ISSUED AT
WASHINGTON

B-2 24 MAY 1982

MULTIPLE

24 MAY 1986

Henry
SMITH

SAMPLE

David H. Hutchison
CONSULAR OFFICER 277

Without Counterfoil

Exhibit Ib

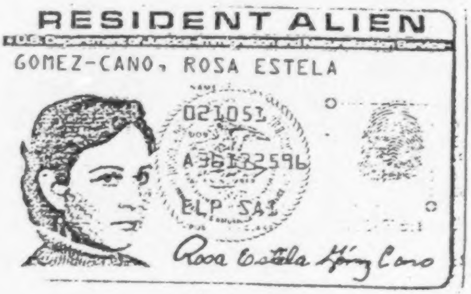
Document: I-551 Resident Alien Identification Card (Green Card)

Issuing Agency: Immigration and Naturalization Service (INS) (1977 - present)

Eligibility: Aliens who have been admitted into the U. S. as permanent residents.

Method of Application: At time of admission into U. S., qualified alien reports to INS with visa and personal identity documents showing resident alien status. If approved by INS, card is issued.

Security Features: Issued by INS after proof of identity and right to permanent U.S. residency has been established. Lamenated card with picture and fingerprint. Machine readable information encoded on back.



RESIDENT ALIEN

U.S. Department of Justice–Immigration and Naturalization Service

GOMEZ-CANO, ROSA ESTELA

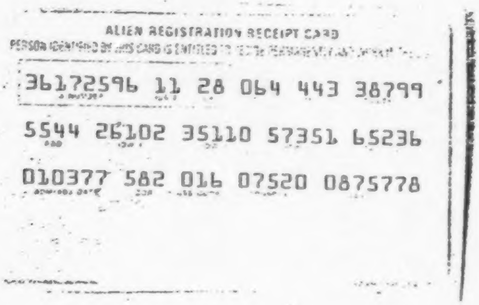
021051

A36172596

ELP SAI

Rosa Estela Gómez Cano

Front



ALIEN REGISTRATION RECEIPT CARD

PERSON IDENTIFIED BY THIS CARD IS ENTITLED TO [illegible]

36172596 11 28 064 443 38799

5544 26102 35110 57351 65236

010377 582 016 07520 0875778

Reverse

Exhibit lc

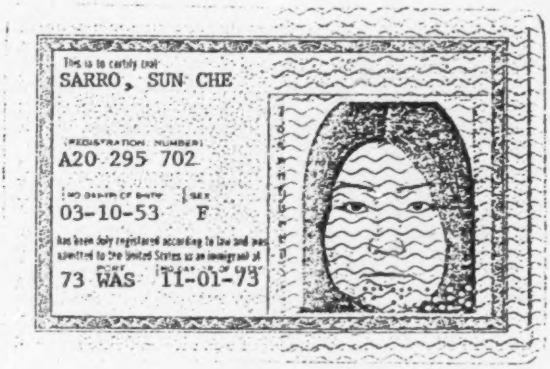
Document: I-151 Resident Alien Identification Card (Green Card)

Issuing Agency: Immigration and Naturalization Service (This is one of 17 versions of the card which was issued from 1946-1976).

Eligibility: Aliens who have been admitted into the U. S. are permanent residents.

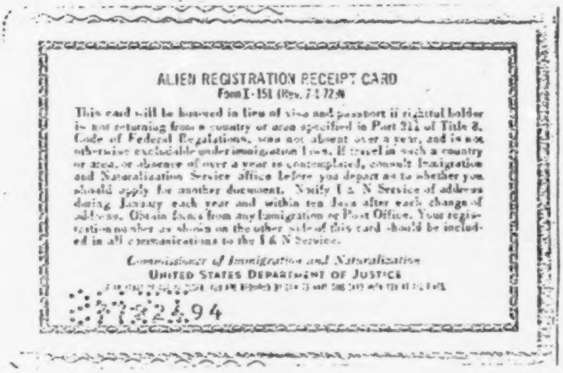
Method of Application: At time of admission into U.S., qualified alien reports to INS with visa and personal identity documents showing alien status. If approved by INS, card is issued.

Security Features: Issued by INS after proof of identity and eligibility. Lamenated photograph.



This is to certify that
SARRO, SUN CHE
(REGISTRATION NUMBER)
A20 295 702
DATE OF BIRTH | SEX
03-10-53 F
has been duly registered according to law and was admitted to the United States as an immigrant at
PORT
73 WAS 11-01-73

Front



ALIEN REGISTRATION RECEIPT CARD
Form I-151 (Rev. 7-1-72)N

This card will be honored in lieu of visa and passport if rightful holder is not returning from a country or area specified in Part 211 of Title 8, Code of Federal Regulations, was not absent over a year, and is not otherwise excludable under immigration laws. If travel in such a country or area, or absence of over a year is contemplated, consult Immigration and Naturalization Service office before you depart as to whether you should apply for another document. Notify I & N Service of address during January each year and within ten days after each change of address. Obtain forms from any Immigration or Post Office. Your registration number as shown on the other side of this card should be included in all communications to the I & N Service.

Commissioner of Immigration and Naturalization
UNITED STATES DEPARTMENT OF JUSTICE

[illegible]94

Reverse

Exhibit Id

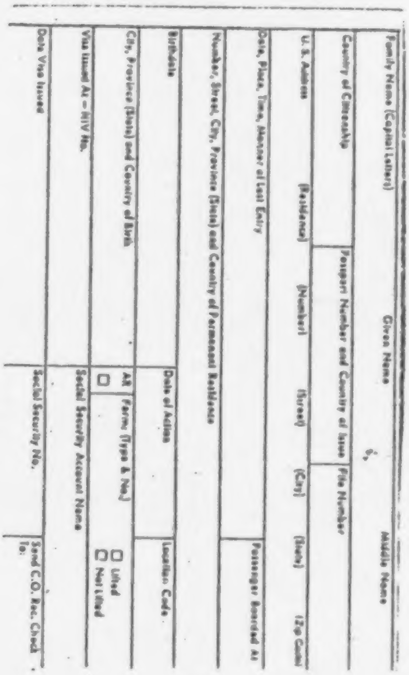
Document: I-94 Record of International Entry and Departure

Issuing Agency: None. Document is authorized by INS but is distributed by airlines.

Eligibility: Foreign travelers entering U.S.

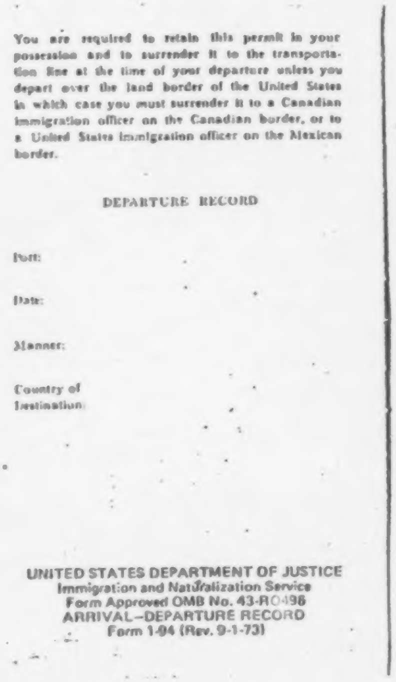
Method of Application: At time of entry, alien receives document from airline. Alien fills out document and presents to INS at port of entry, along with visa and personal identity docuemtns. If INS admits alien, INS will stamp document with appropriate information relating to conditions on alien's entrance (e.g., eligibility for work). At completion of visit, alien is required to turn in the form to INS in order to account for departure.

Security Feature: None



Family Name (Capital Letters) | Given Name | Middle Name
Country of Citizenship | Passport Number and Country of Issue | File Number
U.S. Address (Residence) (Number) (Street) (City) (State) (Zip Code)
Date, Place, Time, Manner of Last Entry | Passenger Boarded At
Number, Street, City, Province (State) and Country of Permanent Residence
Birthdate | Date of Action | Location Code
City, Province (State) and Country of Birth | ☐ AR | Form: (Type & No.) | ☐ Filed ☐ Not Filed
Visa Issued At – NIV No. | Social Security Account Name
Date Visa Issued | Social Security No. | Send C.O. Rec. Check To:

Front



You are required to retain this permit in your possession and to surrender it to the transportation line at the time of your departure unless you depart over the land border of the United States in which case you must surrender it to a Canadian immigration officer on the Canadian border, or to a United States immigration officer on the Mexican border.

DEPARTURE RECORD

Port:

Date:

Manner:

Country of Destination:

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Form Approved OMB No. 43-R0496
ARRIVAL–DEPARTURE RECORD
Form I-94 (Rev. 9-1-73)

Reverse

Exhibit le

Document: Social Security Card

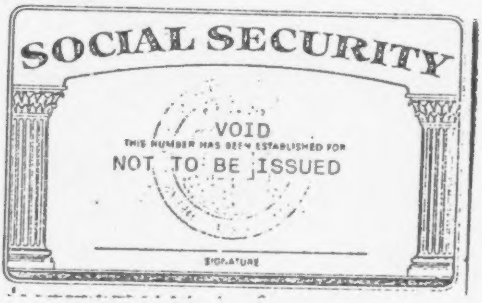
Issuing Agency: Social Security Administration

Eligibility:

1. U.S. citizen's and resident aliens are eligible for card and number for work purposes.
2. Non-immigrant aliens are entitled to cards with special numbers for non work purposes (e.g. obtain bank accounts, driver's licenses, enroll in schools).

Method of Application: Applicant appears at Social Security Administration's district office with proof of identity, citizenship and age. If documentation is acceptable, card is mailed to applicant with number assigned by SSA in Baltimore.

Security Features: None



SOCIAL SECURITY

VOID

THIS NUMBER HAS BEEN ESTABLISHED FOR

NOT TO BE ISSUED

SIGNATURE

Exhibit If

Ms. Hainer. To carry out this investigation, we conducted interviews nationwide with officials of the State Department, the Immigration Service, and the Social Security Administration. We spoke as well with law enforcement agents in the Customs Service, the Secret Service, the U.S. Postal Inspection Service, the FBI, the Drug Enforcement Administration, Interpol and several U.S. attorneys' offices.

On the benefit agency side, we spoke with agency representatives and staffs of the Inspectors General of the food stamp program, social security benefit program, student loan program, public housing, and agents of the Internal Revenue Service concerning multiple filing and tax avoidance schemes.

The scope of the Federal identification problem with respect to Federal benefit programs is enormous and pervasive. There were two problems we ran into in trying to quantify more accurately the exact dollar loss to the Government.

First, there was a glaring absence of firm statistics on false identification crimes. Second, very few cases have been made against the individuals who obtain and misuse Federal identification in Federal benefit programs.

We reviewed over 350 closed cases of passport, visa, social security, and alien registration card fraud. The schemes we came across are complex and varied, but in general, we can say that the perpetrators of the schemes ran the gamut from U.S. citizens to those foreigners in the United States who are either permanent residents or illegal aliens.

The acquisition of false identification in general, the acquisition of one document, is merely a stepping stone in a series of events which leads to the acquisition of more Federal identification and eventually results in fraud to the Government and to the benefit programs.

There are common problems with all of the agencies which issue identity documents. Namely, there is minimal active criminal investigative work by the agency investigators.

There are no interagency networks to share leads or patterns on abusers. There is a low awareness of the fraud potential for misusing identification documents and there are weak internal controls over the issuance of these documents which, in effect, aid the schemers who sometimes turn out to be the very Government employees who are issuing the documents.

There is one case we ran across which we feel typifies the variety of schemes we were looking at. There are a number of problems with the issuance of identity documents in this case and with loopholes in the benefit programs. All these problems were further exacerbated by the lack of interagency cooperation.

This case involves a Nigerian student who came to the United States in 1976 on a student visa. His name is James Aho Oseme.

For 4 years, until 1980, he worked in violation of his student visa. He attempted to enter into a sham marriage with a U.S. citizen and when that scheme was detected by immigration officials, he agreed to voluntarily leave the United States.

At the time of his departure from the United States, he was collecting unemployment compensation benefits to which he was not entitled.

Within a 2-week period, he returned to Ghana. He got a clean Nigerian passport in Ghana. He went to the American Embassy in Ghana and got a new tourist visa stamped in his new passport and he immediately returned to the Denver area. He then went to three schools in the Denver area and enrolled there.

To the foreign student offices, he lied and he said that he was a foreign student on a foreign student visa with sufficient means to finance his education. To the financial aid offices, he further lied. He said that he was a needy permanent resident alien and, therefore, entitled to a student loan. He succeeded in getting student loans totaling in excess of $12,000 from the three schools. Half of that amount was Federal benefit funds.

Additionally, he received unemployment compensation benefits and IRS-earned income tax credits for 3 years to which he was not entitled.

When his schemes were detected the second time, formal deportation proceedings against Oseme were begun. At the same time, a criminal investigation into the student loan schemes was commenced.

Before the indictment was handed down against Oseme, he was formally deported. One month later, he was indicted on three charges of mail fraud. Oseme should be back in Nigeria, but because the Immigration Service had not alerted the border patrol agents about Oseme and because the State Department did not know of his case to alert their consular offices in West Africa, no one knows to this day whether Oseme obtained another visa and has returned to the United States.

That concludes my remarks, Mr. Chairman.

Chairman ROTH. Thank you.

If I understand the summary of your study, first of all, there is almost a total lack of understanding and concern as to the dimension of this problem among the agencies.

Ms. HAINER. That is correct.

Chairman ROTH. That it is relatively simple for almost anyone to secure these identity documents, both here and abroad, or, in the alternative, it is relatively simple to buy counterfeits. That these documents enable these individuals who are not eligible for these programs to secure benefits under a whole area of Federal, State, and local programs and that as a result, the costs of these programs have been substantially inflated. Is that correct?

Ms. HAINER. That is correct. It is a building block process. There are weaknesses in the issuance of each document. Each time one document is compromised, it means that other documents will be compromised and, finally, the benefit programs will be affected.

Chairman ROTH. Thank you.

I have no further questions.

Senator Rudman?

Senator RUDMAN. No, thank you, Mr. Chairman.

Chairman ROTH. Senator Chiles?

Senator CHILES. No questions.

Chairman ROTH. Senator Cohen?

Senator COHEN. No questions.

Chairman ROTH. Thank you, Karen.

We will now call Newton Van Drunen, who is currently incarcerated in Federal prison. Mr. Van Drunen pled guilty this year to four charges relating to counterfeiting and distributing social security and INS cards and Social Security Administration franked envelopes, and was sentenced to 10 years.

According to knowledgeable officials within the INS, Mr. Van Drunen is considered to be one of the best forgers in the business.

We are interested in his experiences in the Chicago area and seek to learn whether Federal identity documents can be easily copied and, if so, why?

Mr. Van Drunen, will you stand, raise your right hand.

Do you swear that the testimony you are about to give before this subcommittee is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. **Van Drunen.** I do.

TESTIMONY OF NEWTON VAN DRUNEN, CONVICTED DOCUMENT FORGER

Chairman **Roth.** Be seated.

At this time, we will ask you to proceed with your statement.

Mr. **Van Drunen.** Mr. Chairman and members of the subcommittee, my name is Newton Van Drunen.

I am 54 years old. I was born in Canada and I am a citizen of the United States. I am presently incarcerated in a Federal prison in Chicago, Ill., and I am serving a 10-year sentence for counterfeiting and conspiracy offenses.

Throughout my youth, I spent a great deal of time working with members of the Mexican community. As the years went by, I began to identify more and more with their plight in this country. I speak Spanish fluently and today, I consider myself a part of the Mexican community.

I began my career smuggling aliens in 1956 or 1957. I cannot recall how I got started, but during that time I also worked as an industrial arts teacher. On the side, I exported cars from the United States to Mexico. I started dealing in documents as a middleman, not a counterfeiter, in the late 1960's. I provided documents for illegal Mexicans and arranged work for them in factories around Chicago.

In order to get jobs for Mexicans, I first had to get them a social security number. I did this by simply completing the application forms as there were no specific requirements at that time to get a number.

When employers became concerned about hiring illegal aliens and began requiring more documentation, I furnished aliens with baptismal certificates in addition to the social security cards. I purchased these at church supply stores and just filled them out for each of my clients.

I was arrested and convicted in 1973 for illegally smuggling aliens from Mexico. In 1975, I was sent to Sandstone Federal Prison in Minnesota.

It was at Sandstone that I had my first experience with printing. I had not counterfeited any documents before going to jail, although I was very interested and eager to learn. Unbelievably, I was placed in the prison printshop to work and learn the trade. This shop did a lot of work for the Immigration Service.

Various INS internal documents crossed my hands in the printshop. Most important to me later on would be the information about the new INS alien registration card and the fact that INS had contracted with Polaroid to supply films and equipment for the project.

I couldn't believe this information was actually coming through my hands while in prison. I thought at first the Government was setting me up because my wife continued running my business by furnishing vendors from the stock of documents I had accumulated.

After I got over my fears, though, I learned various tricks of the trade from other inmates who were professional printers and counterfeiters.

When I got out of prison in 1976, I continued to sell documents as a middleman. It was at this point that I set up a printshop by purchasing commonly available equipment. I did not try to counterfeit the INS card in use at that time, as I did not choose to create an already overextended document. All of the information I had learned in jail about the new INS alien registration card was stored in the back of my mind until such time as the card would be issued in 1977.

However, I did some experimenting to create my version of the new card. I assumed the Government would use a sophisticated magnetic strip with coded information which would be placed inside the card. I later learned I was wrong—INS did not use as sophisticated a process as I had envisioned.

Meanwhile, I begun producing my own Texas birth records, Selective Service cards, and social security cards. All of the Mexicans I sold to, through a network of vendors, knew the documents and the social security numbers were phony. I was selling identification packets consisting of the social security card, Texas birth certificate, baptismal certificate, and the Selective Service card for $75 per package. This price was usually doubled by the vendors when they delivered the documents to Mexicans.

A few months after my release from Sandstone, I was arrested again by INS in 1977 but fled after I was released on bail. As a fugitive, I continued to operate my business in the Chicago area. To avoid capture, I used several fake identities which I created, and I manufactured the documents to support these identities.

One of the most successful documents I counterfeited during this fugitive period was a reproduction of the photocopied letter issued by U.S. District Court Judge Grady as a result of his decision in an important immigration case. 145,000 copies of this "Silva-Levi" letter were issued to aliens who, by possession of the letter, could remain legally in the United States and work.

I simply reproduced hundreds of copies of this letter and sold it to vendors for $15 each. The letter was a cinch to counterfeit. It did not have a serial number which could be traced, and it did not identify the person to whom it was issued. For false identification purposes, it was an ideal identity document.

I also counterfeited the INS form I-94 and issued it with the "Silva-Levi" letter. This is another dream document to reproduce. With an unsophisticated stamp noting "work authorized," a Mexican illegal can work almost without trouble in the United States.

For a brief period, I made out income tax forms for Mexicans if they wanted me to. Some used the phony social security numbers I gave them not only to work, but also to file for refunds. I don't think there is much coordination between IRS and the Social Security Administration. I figured it would take a while for these agencies to find out if any of the Mexicans were sharing social security numbers or using phony ones.

On a scale of "1 to 10" the social security card is a "1"; it is just extremely simple to reproduce. Also, from various sources, including social security office workers, I learned generalities about the social security numbering code. As far as I was concerned, phony social security numbers were undetectable by employers.

The danger, if any, was in using a number issued to another person. Anyone could use my card for at least 1 to 3 years before detection, if at all. That was sufficient for my clients' needs.

By 1980, I had learned enough about "unissued" social security numbers, those to be used by a State in 15 or 20 years, and then only gave unissued numbers to my clients.

By the time INS first issued its new alien registration card in July 1980, I had already developed a loyal following. At one time I had a large number of vendors working throughout the Chicago area.

Some of my vendors migrated to California, Arizona, New Mexico, Texas, Florida, Georgia, Indiana—of course, they were in Illinois—Michigan, Minnesota, and Nebraska, and continued selling my documents in these States.

I set the prices for the vendor and told them how much to charge the customers. For example, social security cards, birth certificates, and drivers licenses cost the vendor $15 and the customer $30.

Harder-to-produce Texas birth certificates and birth registration cards together cost the vendor $45 and the customer $90.

I took special request orders, and even counterfeited Government agency envelopes. Since I did not deal directly with customers, I cannot say exactly how many people purchased from my vendors the tens of thousands of documents I counterfeited.

I was finally able to get my hands on a just-issued INS alien registration card in the summer of 1980. Over several days, I worked out a theory of just how the card could be fabricated. I could not destroy the card I was studying, because it was someone's valid card, so I took measurements and made a few test cards. About 2 weeks after I first saw the new card, I created my first acceptable copy of it.

I knew that optical readers for the coded information on the back of cards would not be available to immigration inspectors at the same time the cards were to be issued. So I didn't worry about breaking the code but used alien registration numbers that I made up.

I knew that one number stood for the country of birth, therefore I used the correct number for Mexico. I also knew that another number on the back stood for the alien's date of entry or date of legalizing status.

I gambled that the Government would use phosphorescent ink on the new card. I lost. INS used fluorescent ink, which is a lesser quality ink and requires ultraviolet light for detection. I stopped using the more difficult phosphorescent ink quickly, but I never bothered to change to fluorescent ink.

I also erred in the type of film used to photograph one layer of the card. It turns out the Government uses a different type of film, which is readily available on the commercial market.

The biggest problem with the new INS card is that every part of it can be completely reconstructed once the materials are discovered. The type, style, ink, paper, and even the overlays are commercially available.

I was able to counterfeit only 300 of the new alien identification cards before my arrest in 1981. After I made a new card, I maintained a filing system for everyone who bought a card from me. I guaranteed each person that the card would be corrected, within a 30-day period, if there were any errors.

As I perfected the new card, I planned to have each customer receive a new and better one. Since I did not keep in touch with my customers, I put a series of identifying numbers alongside the file card, which also had a picture of the customer.

If I gave the person a social security number, I would write that down on the file card. I also had a code on the file card for the vendor who sold the document or the area where it was sold.

I sold this INS card for $60 to the vendor, and told vendors to charge customers $120 each. I was adamant about making sure my vendors told illegal customers these identity cards were phony. I even quizzed customers, through vendors, and had the vendor give me the customer's response so I could be certain the cutomer wasn't fooled into thinking the purchased documents were official.

My purpose in testifying today, Mr. Chairman, is to offer some positive suggestions about the reliability of identification documents currently in use.

In general, I think the INS alien registration card—I-551—has some very attractive features to withstand tampering.

The document, however, is not counterfeit proof. To improve on it, INS should consider:

Using decoders which can be carried around easily by the Border Patrol and other immigration inspectors;

Adding original art work to the border of the card;

Using phosphorescent ink so the card can be checked with a flashlight during inspection, and would be more difficult to photograph;

Using a serrated edge on the insert;

Using a two-color plastic to make photographing more difficult; and,

Imprinting "U.S.I.N.S." on the plastic laminate itself.

I want to thank you for this opportunity to testify.

I am available to answer any of your questions.

Chairman ROTH. You will see on the side several documents.

Are these examples of your work?

Mr. VAN DRUNEN. With one exception, Senator.

There is one document up there that I did not create. I consider it to be inferior in quality and I don't know how it got there.

Chairman ROTH. In a sense, what you are describing to me is an open season on Federal programs through these documents.

Mr. VAN DRUNEN. That is possibly true, Senator.

Chairman ROTH. They are very easy to duplicate. Do I understand that much of your knowledge you learned while in prison, while you were at Sandstone, the prisoners were working on this sensitive information. Is that correct?

Mr. VAN DRUNEN. I don't think the information was sensitive, Senator. I think it is just common information. It goes through the

INS printshop but someone can pick up a newspaper and get the information out of a newspaper.

Chairman ROTH. You said that you produced something like 100,000 documents?

Mr. VAN DRUNEN. Something like that. That is an estimate but it would be in the neighborhood.

Chairman ROTH. And what percentage of the market, if you can call it that, would you say that you accounted for in the Chicago area?

Mr. VAN DRUNEN. Actually, Senator, I tried to run this like a business, and I believe that in dealing with my customers, I had both principles and scruples that were maintained, but I studied my market, the possible market and the amount of penetration that I had, and I assumed, and my files would confirm this, I assumed that my portion of the market was about 2 percent.

If it went beyond 6 percent, I would be terribly surprised.

Chairman ROTH. So you are talking a potential market of how many, roughly?

What is your guesstimate?

Mr. VAN DRUNEN. If 2 percent was my part of it and over a number of years I produced 100,000 documents, obviously the market is something like 5 million.

Chairman ROTH. Five million documents?

Would you identify what some of those documents over there are?

[The witness approaches the chart].

Mr. VAN DRUNEN. This document right here, I did not produce and I do not take responsibility for it. The quality is very low, the color is bad, the printing is bad. These documents here are my series of attempts, and you will notice they continue to improve, on the immigration——

Chairman ROTH. I tell you what I would like you to do.

If you would take your seat, then one of our staff people can point to what you are talking about. We cannot hear you without the microphone.

Mr. VAN DRUNEN. All right.

Chairman ROTH. Do you want to start pointing to some of them?

Mr. VAN DRUNEN. Point to that document over on this side. Referring to that, this document is not mine. I don't know where it came from. The color is badly off and the printing is very poor. Also, even the typing is a very inferior grade.

The document being pointed to is an I–551, my version of it, obviously, not the Government's. You see here a continuing attempt to better the document.

Now, this was just a sample, of course, but it does pretty well fill in what I did over a period of time.

The document in the lower corner—that document—is a specialty document. This is a marriage certificate. The first one of anything would cost the customer, or at least the vendor, $50. This was a specialty item and was not produced in any real quantity.

Going on from that to the green—that—this is a certificate of birth and it is, of course, a forgery, a phony but the paper and the border on it is the exact same paper that is used by the Government agency that produces the legitimate papers.

The top is a social security card. This was not the only social security card that I made.

Dropping down from that is a marriage license for Texas.

The next one down is a document that really doesn't have any existence but I created it because there seemed to be a need for such a document.

Chairman ROTH. What was that need?

Mr. VAN DRUNEN. Well, Illinois doesn't have a birth registration card that you can carry around in your pocket, Senator, so I created one. And it seemed to work pretty good.

Dropping down is a voter's registration card for Cook County, Ill.

The next one down I have explained. This is an achievement certificate for completing a GED course.

I cannot see the one under that. Go up over to this corner now.

This is a universal Mexican birth certificate. By filling this in properly, I can show the person was born in any part of Mexico. It covered all the States and all the cities because there was not much specific demand for a State or a city. I had to have something that covered everything.

The document, however, is based on an authentic Mexican document. Come across to the middle.

The document that is being pointed at is a Texas birth registration card. This is by far and away the most popular document that I created. It was used over a period of years, changed its color from time to time.

Whenever it changes its color, I change right with it. I would say this plus the social security card, which were given to the vendor for $30 and to the customer for $60 was all you needed for working or for getting a driver's license or just anything you wanted to do.

Chairman ROTH. My time is up.

I will ask you one final question.

Why would you want a Mexican certificate?

Mr. VAN DRUNEN. If you took an I-551 and went to a driver's license station, particularly in Illinois, you couldn't get a driver's license with it. They needed some more proof of identity. Consequently, for these people to write home and get a birth certificate would take months. They were in a hurry for it so they wanted it in a week, maybe 2 weeks and they would rather pay the little difference and get some paper they could present there immediately, and, thus, they would have a driver's license much sooner.

I am speaking of a valid driver's license now, Senator.

Chairman ROTH. What?

Mr. VAN DRUNEN. I am speaking of a valid driver's license issued by the State, not by me.

Chairman ROTH. Senator Rudman?

Senator RUDMAN. Thank you, Mr. Chairman.

I wonder if you could tell us, did you have any knowledge of printing whatsoever before you entered Federal prison?

Mr. VAN DRUNEN. No, I did not, Senator.

Senator RUDMAN. And you were convicted of selling forged documents, as a distributor of forged documents?

Mr. VAN DRUNEN. No, I was convicted of smuggling aliens.

Senator RUDMAN. So you had nothing to do with documents whatsoever but a lot to do with aliens?

Mr. VAN DRUNEN. No, I had a tremendous amount to do with documents but it was not known at that time.

Senator RUDMAN. Were you printing them?

Mr. VAN DRUNEN. No, I was buying them from church supply stores, for example, and at that time, I had other printers make up the material for me.

Senator RUDMAN. When you arrived at the Federal penitentiary then, the authorities there knew you were convicted of smuggling aliens?

Mr. VAN DRUNEN. Smuggling, yes. They had no responsibility as far as my being placed in the printshop as such and I am not attempting to imply that. They were completely unaware that I might have an interest in printing.

Senator RUDMAN. They were aware of the fact that you had an interest in smuggling aliens?

Mr. VAN DRUNEN. Yes.

Senator RUDMAN. They were aware of the fact that when smuggling aliens it is nice to have documents that can be bought over the counter.

Mr. VAN DRUNEN. We can surmise this to be true, but there is no definite evidence they did know that.

Senator RUDMAN. But you learned all of your printing while in Federal prison?

Mr. VAN DRUNEN. Yes, I did.

Senator RUDMAN. These are very extraordinary documents. I saw them yesterday and looked at them rather closely. They are extraordinary and difficult to tell from the original.

How much equipment did it take to do this?

Did you have a large shop? Did you have employees?

Mr. VAN DRUNEN. I had no employees; I worked alone. The maximum that I spent on equipment would not pass $6,000. I could go out on the streets of Washington and reduplicate my equipment for about $10,000, possibly, but I built my own cameras and much of the machinery that I worked with I built personally because I liked it better. It was more efficient for my needs.

Senator RUDMAN. So with some knowledge of printing and some mechanical ability and an investment of under $10,000, you were able to reproduce all of these documents?

Mr. VAN DRUNEN. That is correct, Senator.

Senator RUDMAN. And you tell us you were maybe 2 percent of the market?

Mr. VAN DRUNEN. That is also correct.

Senator RUDMAN. As a practical matter, I wonder if you might tell us, other than the suggestions you have listed at the end of your testimony, what specific means you think these agencies could take to protect themselves against people like you?

Mr. VAN DRUNEN. If you are speaking of a physically created document, there is very little that can be done against a person such as myself.

I believe that any document that I was handling I could duplicate within 2 months, but there are ways and means of making these documents very difficult to reproduce.

Senator **Rudman**. Is it not true that the immigration card that you reproduced has a computer code on the back of it which essentially is read by an optical scanner; is that correct?

Mr. **Van Drunen**. That is correct, Senator.

Senator **Rudman**. That card in the middle, there are six examples of that card, finally evolving to the one you thought to be perfect. The back of that card, I believe we have an exhibit over there, has a code; am I correct?

Mr. **Van Drunen**. I would like to correct you on one thing, Senator. I did not say the document was perfect. It wasn't perfect by my standards. I was heading toward an ideal but it had not reached that point. However you are correct——

Senator **Rudman**. It was good enough. And that is the back of that card. Those numbers have a special significance.

Mr. **Van Drunen**. That is true, Senator.

Senator **Rudman**. If those numbers are passed over an optical scanner, that is tied to the computer, it will validate that card; is that correct?

Mr. **Van Drunen**. Assuming you have an optical scanner.

Senator **Rudman**. That is the point. You evidently knew that although this system was very sophisticated, the Immigration and Naturalization Service did not have the optical scanners.

Mr. **Van Drunen**. Yes, from articles in the newspaper, I knew that optical scanners were available to them.

Furthermore, may I say my authority for this is Lionel Castillo, who was former Commissioner of the INS. In an article a few days back, he confirmed that no more of the offices have been computerized since 1979.

Senator **Rudman**. So essentially you were able to reproduce that type face. Anyone who recognizes an optical scanning type face can identify it?

Mr. **Van Drunen**. That is correct, Senator.

Senator **Rudman**. So it looks very nice. Someone would look at this card, see it and it would have this very nice printing on the back, but they had no scanner to pass it across so the security built into the system was worthless?

Mr. **Van Drunen**. That is correct.

Senator **Rudman**. Maybe you can tell us; does the agency have optical scanning equipment now?

Mr. **Van Drunen**. To the best of my knowledge, it does not.

Senator **Rudman**. So all the technology that went into developing an optical scanning confirmation card linked into a microprocessor doesn't work and all you have to do is photograph the type face, put it on the back of the card and to anyone looking at it, it looks real.

Mr. **Van Drunen**. Basically, that is correct, Senator.

Senator **Rudman**. How much of your sentence have you served now?

Mr. **Van Drunen**. Eight months.

Senator **Rudman**. How long do you have to go?

Mr. **Van Drunen**. Ten years.

Senator **Rudman**. What will you serve with good time off?

Mr. **Van Drunen**. Four years.

Senator **Cohen**. Are you working in the printshop?

Senator **Rudman**. That was my next question. Senator Cohen beat me to it.

Are you working in the printshop?

Mr. **Van Drunen**. No, I am not, Senator.

Senator **Rudman**. And you will be out if you are on good behavior in about 4 years?

Mr. **Van Drunen**. I hope to be out in less time than that. I have a B–2 sentence. My guidelines, which cannot be entirely relied upon, call for serving 16 months.

Senator **Rudman**. Of that 10-year sentence?

Mr. **Van Drunen**. Yes.

Senator **Rudman**. What do you intend to do when you get out?

Mr. **Van Drunen**. I beg your pardon?

Senator **Rudman**. What do you intend to do when you get out of prison?

Mr. **Van Drunen**. I am going to open a printshop, Senator. Not being facetious. I have the ability to print and I am good at photoengraving. Why should I not use my talents? They are perfectly legal and so long as I refrain from this type of activity, I won't be——

Senator **Rudman**. With the amount of security we seem to have, you probably could get hired by the GPO or maybe even the Mint.

Thank you, Mr. Chairman.

Chairman **Roth**. Senator Chiles?

Senator **Chiles**. If you were going to design a counterfeit-proof social security card, what steps would you take?

Mr. **Van Drunen**. Frankly, Senator, I believe that it is possible, of course, to design practically a counterfeit-proof card. I believe, furthermore, that the technology now exists and if you will pardon my saying so, I believe that I personally could create and do it so well that once the code was given to the Government that even I couldn't reduplicate it. But, basically, I am not here to attack the I–551: The I–551 up there is a very good card and the Immigration and Naturalization Service came within a mosquitoe's sneeze of having a perfect card.

Now I may have had peculiar, particular information as to how to copy that card, and I obtained it through perfectly legal means. Nothing was done underhandedly and no Government employee was paid to give me information.

But in regard to a counterfeit-proof social security card, it can be done. We can incorporate the present number into it, but it must follow the general principles that are used now in the I–551 plus a certain amount of new technology must be incorporated into it.

Senator **Chiles**. One of the provisions in an immigration bill that is going to be presented to the Senate, is a requirement of having some kind of identifier for people seeking a job.

As you know, today, when you apply for a job, the law requires that you have a social security number and you have to give that number to your employer. A number of our citizens are concerned about this new bill. They don't want us to go to an identifying number for everyone in this country. However, many of us feel we should require that the number you give when you apply for a job should be a noncounterfeitable card with some kind of identifier. Then you could require an employer to run a check to determine if the person has a valid card, in which case, of course, you could tell whether that person is entitled to work in this country or not.

It is your feeling that, if the Government used the I-551 system and applied some further technology to it, we could make the present social security card noncounterfeitable. Then, it could be an identifier as well.

Mr. VAN DRUNEN. Yes, that is true, Senator.

As a matter of fact, I worked on this very problem because I was preparing my own technology to counterfeit the I-551, but as I said in my statement, I made a mistake.

However, I developed magnetic coding which I thought the Government was going to use. The Government did not use magnetic coding. And, if I disallow two factors for conversation purposes, we are going to assume that no Government employee would be disloyal and no Government employee would be stupid.

All right. Now, if I disallow those two factors, the security factor left in the card that I produced is 27 to the 5th power. The chances of being able to break it are something like 1 in 320 million.

Senator CHILES. So, again, then if someone did attempt to break it, you should be able to pick up that attempt. There would not be a wholesaler, who could forge this card because, like you say, that would be picked up with any kind of a valid check.

Mr. VAN DRUNEN. Yes, Senator, that is exactly what I am saying. The KGB might be capable of doing it, but Newton Van Drunen could not.

Senator CHILES. Let me ask you this: Assuming that you had this card, how would you set up a system so that an employer would be able to take that card and quickly obtain information as to whether that was the valid holder of the card?

In other words, what kind of process would you set up to allow the employer to make a speedy check?

Mr. VAN DRUNEN. There are various ways that can be accomplished, Senator, although I am going to assume the technology is beyond the present discussion.

Senator CHILES. Right.

Mr. VAN DRUNEN. I was working on a decoder that would be a portable unit. It could be carried anywhere and a special model of it could be given or sold to a potential employer which would read only one section of the card which meant that if it carried information that he was not entitled to have that it would be automatically blocked from him by the decoder.

Senator CHILES. What would the cost of that be?

Mr. VAN DRUNEN. I believe the unit could be produced for under $1,000.

Senator CHILES. Then, assuming that every employer might not want to have to spend $1,000, decoders like that could be put into the local or State employment office. Then, a slip could be issued saying that the bearer of this card was in fact entitled to a job.

Mr. VAN DRUNEN. Yes, Senator, that is true, very easily. Or a very limited model of the decoder could be made that would confirm or deny the validity.

Senator CHILES. Senator Cohen?

Senator COHEN. The current system works or it would work if we just did the other half of the operation, wouldn't it?

Mr. VAN DRUNEN. No, Senator, it would not. The system was doomed from the start.

Senator COHEN. Even with the optical scanner?

Mr. VAN DRUNEN. Even with the optical scanner.

Senator COHEN. You indicated that you think your talents are legal and, therefore, you should not be prohibited from opening up a print shop. I was struck by that comment. It is sort of like saying someone convicted of mass murder should be allowed to open up a gunshop.

I got the impression from listening to you—and I hate to rain on the parade that has been going on this morning—that you initially started off with a political cause rather than criminal intentions. You talked about your identification with the Mexican community. You talked about clients, about a loyal following, about "my vendors," about "my principles and scruples."

It sounded more like a political cause on your part rather than what it was, an act of and participation in crime.

Mr. VAN DRUNEN. I did not intend for it to sound like a crusade, Senator. But, however, if you would care to, I am sure that everything I stated here would be more than confirmed by my record.

Senator COHEN. When you said that you had 2 percent of the market, how much money did that translate into?

Mr. VAN DRUNEN. I am not capable of saying that for the simple reason that I was wholesaling, but my documents ran, most of them cost $15. At one time, I charged $10 for them, but there was never a week went by but what I gave away without cost a large number of documents to people who couldn't afford to pay for them. The vendors were authorized to take a certain amount of orders on the basis that they just can't pay.

Senator COHEN. I am not talking just about your volume of the market, I am talking about the people who obtained these documents, who in turn would bilk the American taxpayer of millions, if not billions, of dollars. Don't they?

Mr. VAN DRUNEN. That I would question, Senator, for the simple reason that most of these were working people, they used the documents to work, sometimes they used the documents to get genuine social security numbers.

Senator COHEN. What about social security benefits? How about unemployment benefits?

Mr. VAN DRUNEN. I am going to assume they got unemployment benefits, but you have to remember that in order to get these unemployment benefits, they have to first have worked. There would be no difference between these people and the American citizens except that they were illegal aliens.

Senator COHEN. There is something like 12 to 15 million illegal immigrants in this country, isn't there?

Mr. VAN DRUNEN. I think the number is excessive. My belief is there are close to 6 million.

Senator COHEN. The fact of the matter is, through activities such as yours, have made it easier for people to cheat the U.S. taxpayers.

Mr. VAN DRUNEN. Very definitely.

Senator COHEN. Millions of dollars.

Mr. VAN DRUNEN. Millions of dollars.

Senator COHEN. So at a time when Congress is contemplating the restructuring of the social security system because there are not enough benefits to pay people currently on social security, you have to place that in context with what your print operation has done in the past.

Mr. VAN DRUNEN. Yes, Senator. You also have to place in context the fact that this operation has supplied millions of dollars to the Federal Government.

Senator COHEN. Have you offered these recommendations you gave us today to the INS and the Social Security Administration?

Mr. VAN DRUNEN. No one else was ever willing to listen to me, Senator.

Senator COHEN. Nobody asked you for your recommendations as to how to institute a better system?

Mr. VAN DRUNEN. No one has ever asked me for my recommendations.

Senator COHEN. The reason I am a little bit cynical about all of these waste and fraud hearings is that we tend to show the world how easy it is to commit the fraud. We had rather significant hearings on chop shops a couple of years ago and subsequently I had my car broken into in the same fashion demonstrated at the hearings. I am wondering whether or not we are building up your clientel by these recommendations that you are making now.

You are regarded as being the best in the business.

Mr. VAN DRUNEN. I am afraid my clientel isn't much for watching the Senate investigation hearings on television.

Senator COHEN. Really. It seems to me you were reading publications and statements made by head officials in this Government rather closely to find out whether or not the Government was, in fact, doing the things that would make it tougher for you to carry out your activities.

Mr. VAN DRUNEN. That is correct, Senator.

Senator COHEN. So there are people just like you who read very closely what takes place in the papers, on the evening news, Congressional Records, is that not true?

Mr. VAN DRUNEN. That is true, Senator.

Senator COHEN. Let me ask you one final question. How do we know that the recommendations you have made are not self-serving? In other words, you said you could beat the system in 2 months. What is to say that with the recommendations you are making you couldn't beat it in 3?

[At this point, Senator Chiles withdrew from the hearing room.]

Mr. VAN DRUNEN. This is very hard to explain in a short sentence. However, it has to do with the technology that would be used inside the card. Basically we are talking about a code that would be neither known to me nor would I be capable of duplicating it under those circumstances.

Senator COHEN. That is all I have, Mr. Chairman.

Chairman ROTH. Senator Rudman.

Senator RUDMAN. I just have three brief questions.

Mr. VAN DRUNEN. Yes, Senator.

Senator RUDMAN. If the system had been fully implemented and was implemented now on the immigration card, it is my understanding that if that card were passed over an optical scanner, it would get an immediate reading that it was an improper card; am I correct?

Mr. VAN DRUNEN. Possibly it would get a reading that it was an improper card. But you have to consider, these are not my figures, consider the error rate on optical scanners. The error rate, even when you have good printing on an optical scanner, is something like 1 percent. Now, if you put it behind plastic, you go to 3 percent. If we are talking about a card that has been carried around in somebody's pocket for a year, it is dirty, it is scratched, then what is the error rate on it? Assuming we are going to use a fail safe system, there is still the great problem that border patrolmen standing out there on Highway 77 just south of Corpus Christi, Tex., hasn't got an optical scanner with him, and when he is running around at night in his car, he doesn't have an optical scanner.

A system is needed that is cost effective, first of all, but also that would be highly portable.

Senator RUDMAN. We will talk to some experts about that. It just seems to me that the INS only completed half of its project. It is kind of ridiculous to have optical scanning codes and not have optical scanners.

Second question, you said you sold 100,000 documents. Over how long a period of time did you print those documents?

Mr. VAN DRUNEN. That I printed these documents?

Senator RUDMAN. How long in the printing business?

Mr. VAN DRUNEN. I am considering over the whole term I worked with documents. Roughly we are talking about a matter of 12 years.

Senator RUDMAN. How long have you actually been printing documents?

Mr. VAN DRUNEN. About 6 years.

Senator RUDMAN. Did you print about 100,000 documents?

Mr. VAN DRUNEN. I don't think so.

Senator RUDMAN. Do you have any idea what your income was?

Mr. VAN DRUNEN. My income?

Senator RUDMAN. Yes.

Mr. VAN DRUNEN. Well, in any given year, I would say $20,000 on the low end, possibly $45,000 on the top end.

Senator COHEN. Tax free?

Senator RUDMAN. Did you pay taxes on it?

Mr. VAN DRUNEN. No, I did not.

Senator RUDMAN. Were you indicted for tax evasion?

Mr. VAN DRUNEN. No, I was not, Senator.

Senator RUDMAN. My final question, just following up with Senator Cohen; the fact of the matter is there are a lot of people in this country, in prison, around the country, who know how to do exactly what you did here, isn't that true?

Mr. VAN DRUNEN. That is correct, Senator.

Senator RUDMAN. Thank you.

Mr. WEILAND. Mr. Chairman, if I can introduce for the record exhibit 2 which are Xeroxed reproductions of counterfeit documents created by Mr. Van Drunen, many of which appear on the chart at his right.

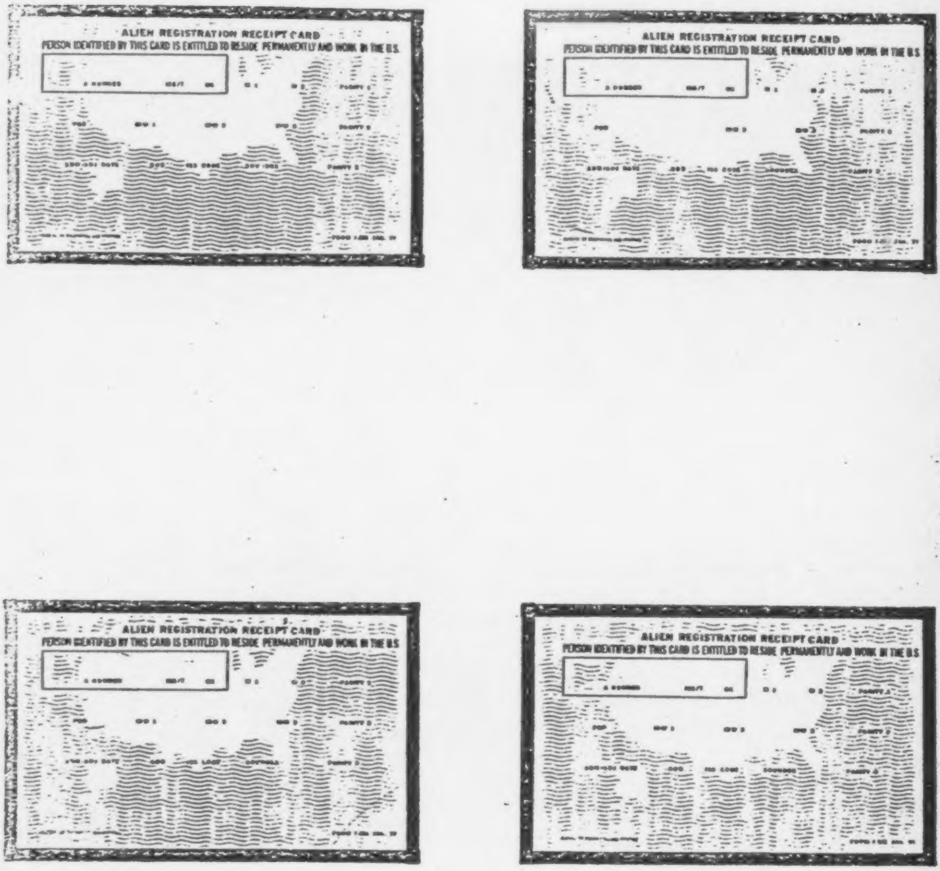
Chairman ROTH. Without objection.

[The documents referred to were marked "Exhibit No. 2," for reference, and follows:]

EXHIBIT NO. 2

COUNTERFEIT DOCUMENTS OF NEWTON VAN DRUNEN

Each of these documents was seized by INS during a search of Mr. Van Drunen's office. Many of the documents are multi-colored and all closely resemble legitimate documents.



ALIEN REGISTRATION RECEIPT CARD
PERSON IDENTIFIED BY THIS CARD IS ENTITLED TO RESIDE PERMANENTLY AND WORK IN THE U.S.

ALIEN REGISTRATION RECEIPT CARD
PERSON IDENTIFIED BY THIS CARD IS ENTITLED TO RESIDE PERMANENTLY AND WORK IN THE U.S.

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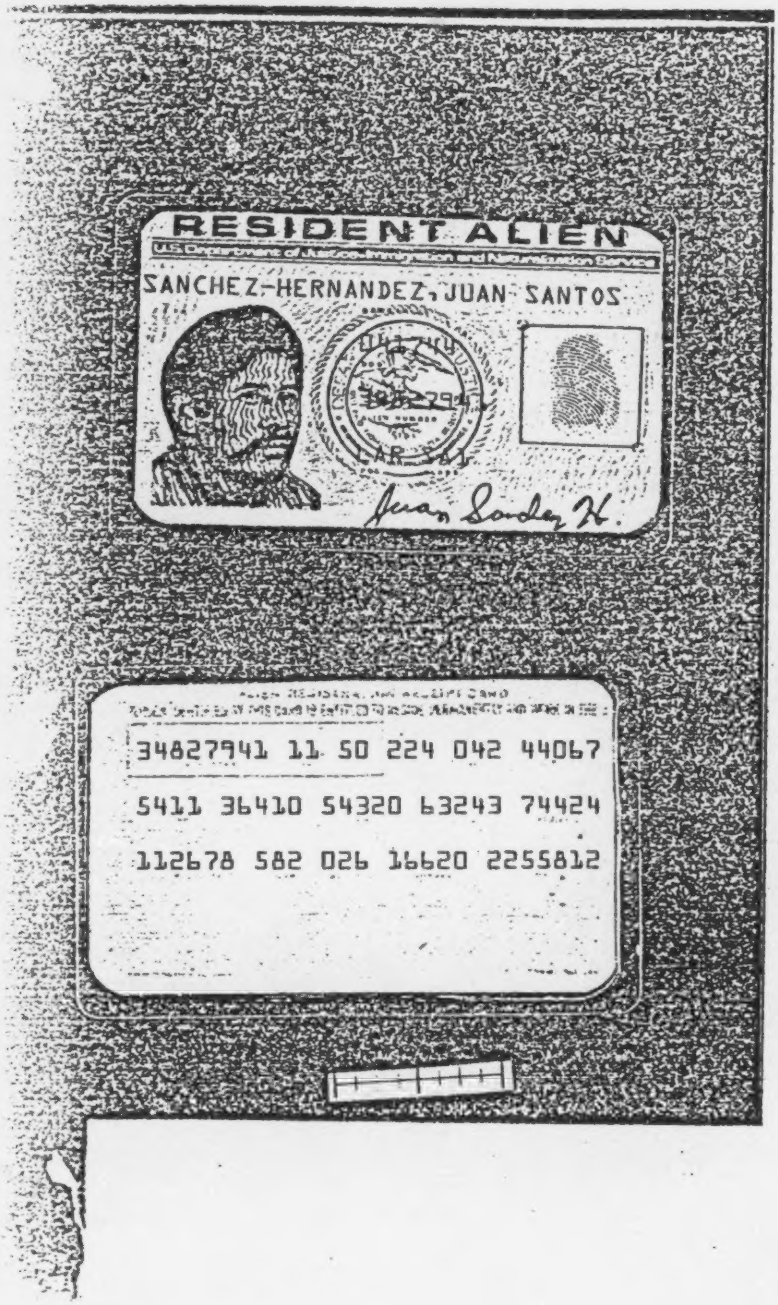
PERSON IDENTIFIED BY THIS CARD IS ENTITLED TO RESIDE PERMANENTLY AND WORK IN THE U.S.

ALIEN REGISTRATION RECEIPT CARD
PERSON IDENTIFIED BY THIS CARD IS ENTITLED TO RESIDE PERMANENTLY AND WORK IN THE U.S.

BLANK REVERSE SIDE OF I-551 CARDS



RESIDENT ALIEN

U.S. Department of Justice—Immigration and Naturalization Service

SANCHEZ-HERNANDEZ, JUAN SANTOS

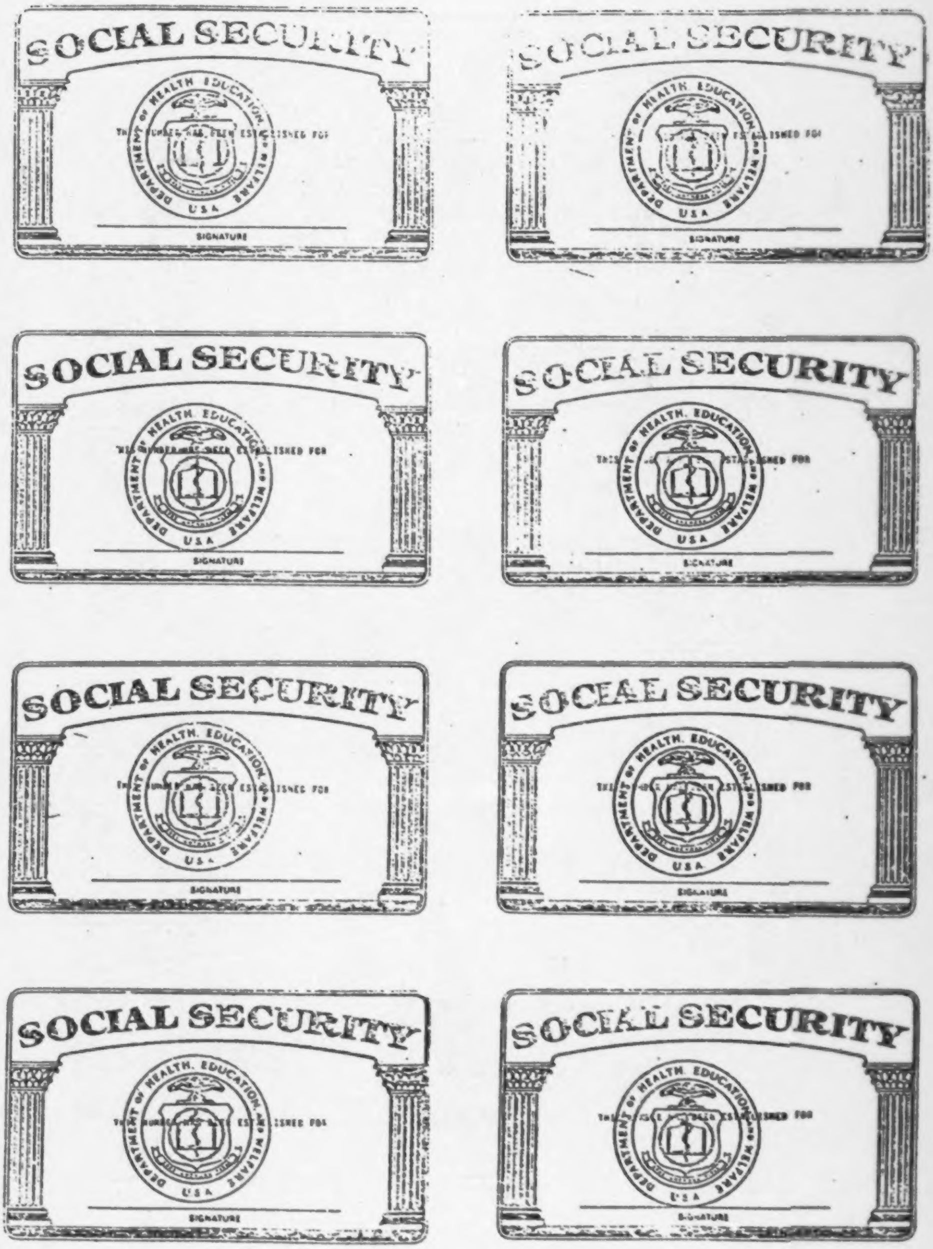
Juan Sanchez H.

34827941 11 50 224 042 44067

5411 36410 54320 63243 74424

112678 582 026 16620 2255812

COMPLETED I-551 CARD



SOCIAL SECURITY
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE U.S.A.
THIS NUMBER HAS BEEN ESTABLISHED FOR
SIGNATURE

SOCIAL SECURITY
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE U.S.A.
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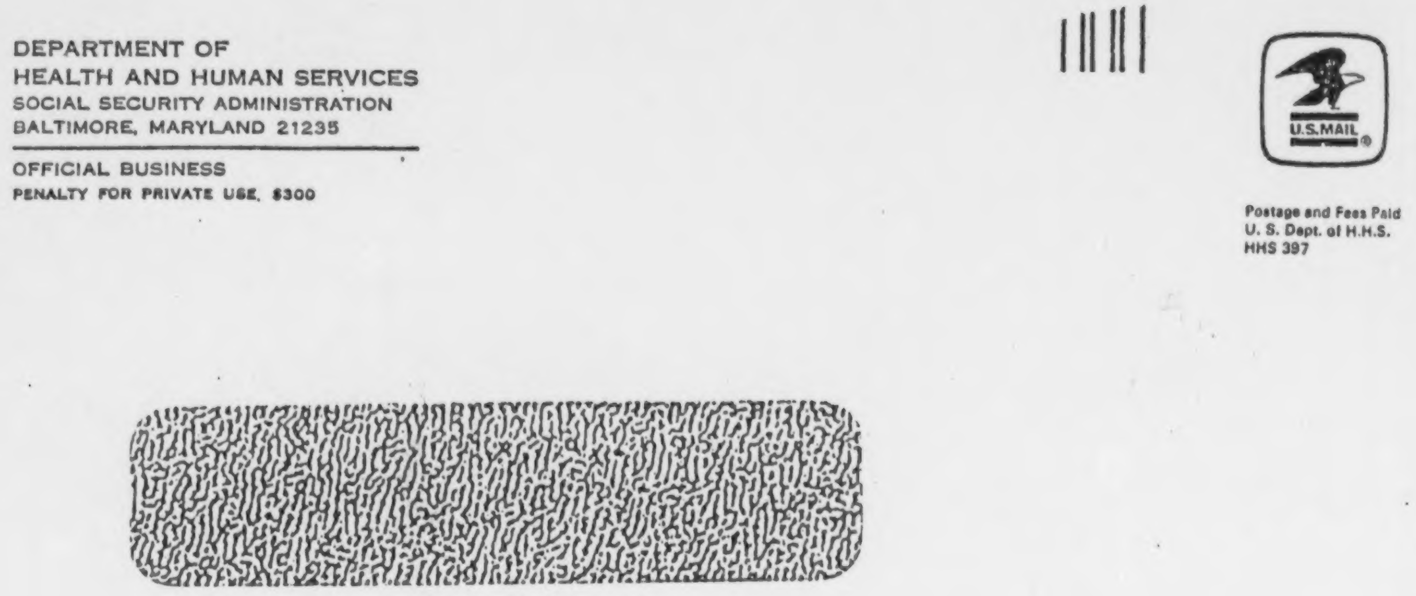
SIGNATURE

BLANK SOCIAL SECURITY CARDS



DEPARTMENT OF
HEALTH AND HUMAN SERVICES
SOCIAL SECURITY ADMINISTRATION
BALTIMORE, MARYLAND 21235

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, $300

Postage and Fees Paid
U. S. Dept. of H.H.S.
HHS 397

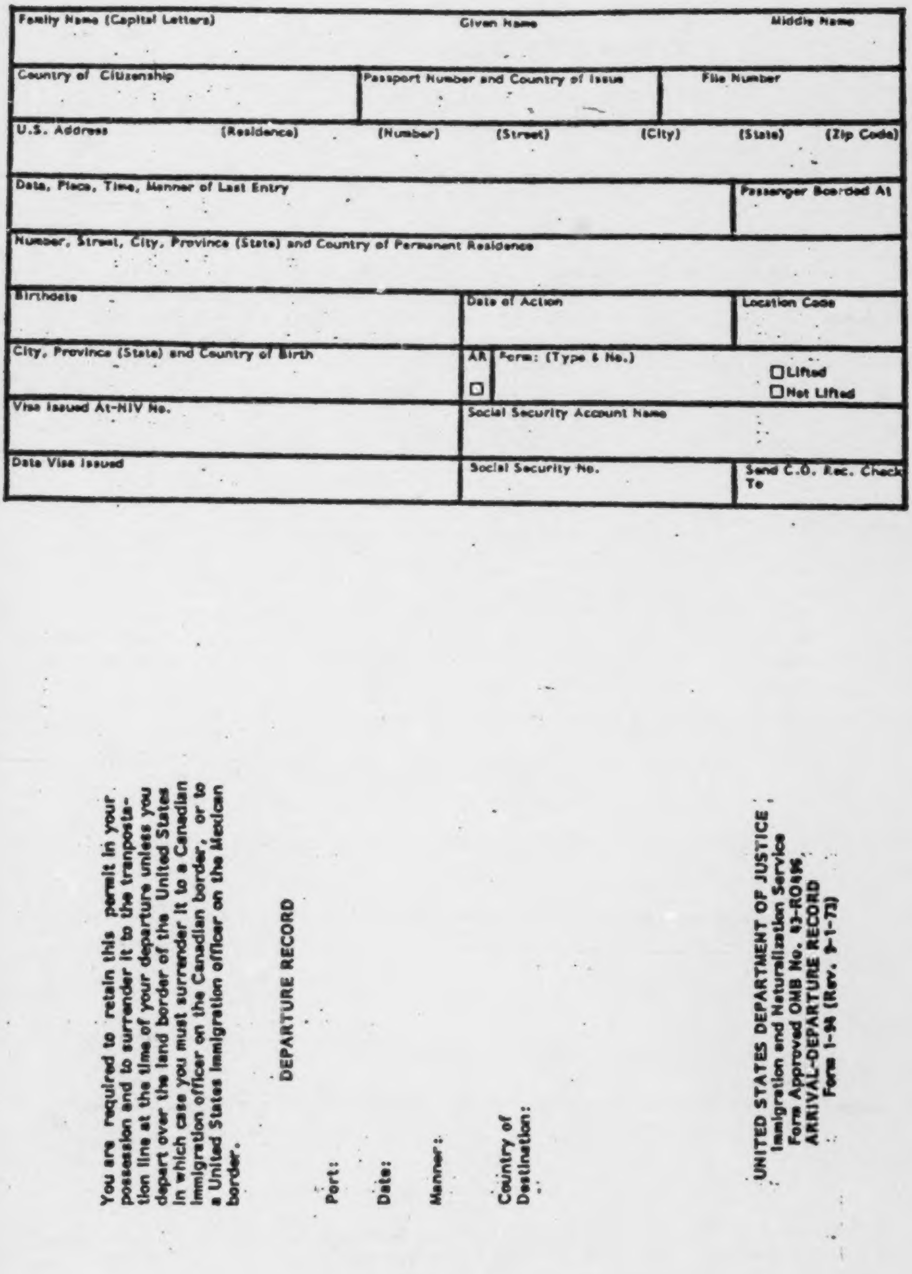
FRANKED ENVELOPE OF SOCIAL SECURITY ADMINISTRATION

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
COURTHOUSE & FEDERAL OFFICE BLDG.
219 SOUTH DEARBORN STREET
CHICAGO, ILLINOIS 60604

PLEASE ADDRESS REPLY TO

AND REFER TO THIS FILE NO.

LETTERHEAD OF IMMIGRATION AND NATURALIZATION SERVICE



Family Name (Capital Letters)	Given Name	Middle Name
Country of Citizenship	Passport Number and Country of Issue	File Number
U.S. Address (Residence) (Number) (Street) (City) (State) (Zip Code)		
Date, Place, Time, Manner of Last Entry		Passenger Boarded At
Number, Street, City, Province (State) and Country of Permanent Residence		
Birthdate	Date of Action	Location Code
City, Province (State) and Country of Birth	AR ☐	Form: (Type & No.) ☐ Lifted ☐ Not Lifted
Visa Issued At-NIV No.	Social Security Account Name	
Date Visa Issued	Social Security No.	Send C.O. Rec. Check To

You are required to retain this permit in your possession and to surrender it to the tranpostation line at the time of your departure unless you depart over the land border of the United States in which case you must surrender it to a Canadian Immigration officer on the Canadian border, or to a United States Immigration officer on the Mexican border.

DEPARTURE RECORD

Port:

Date:

Manner:

Country of Destination:

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Form Approved OMB No. 43-R0436
ARRIVAL-DEPARTURE RECORD
Form I-94 (Rev. 9-1-73)

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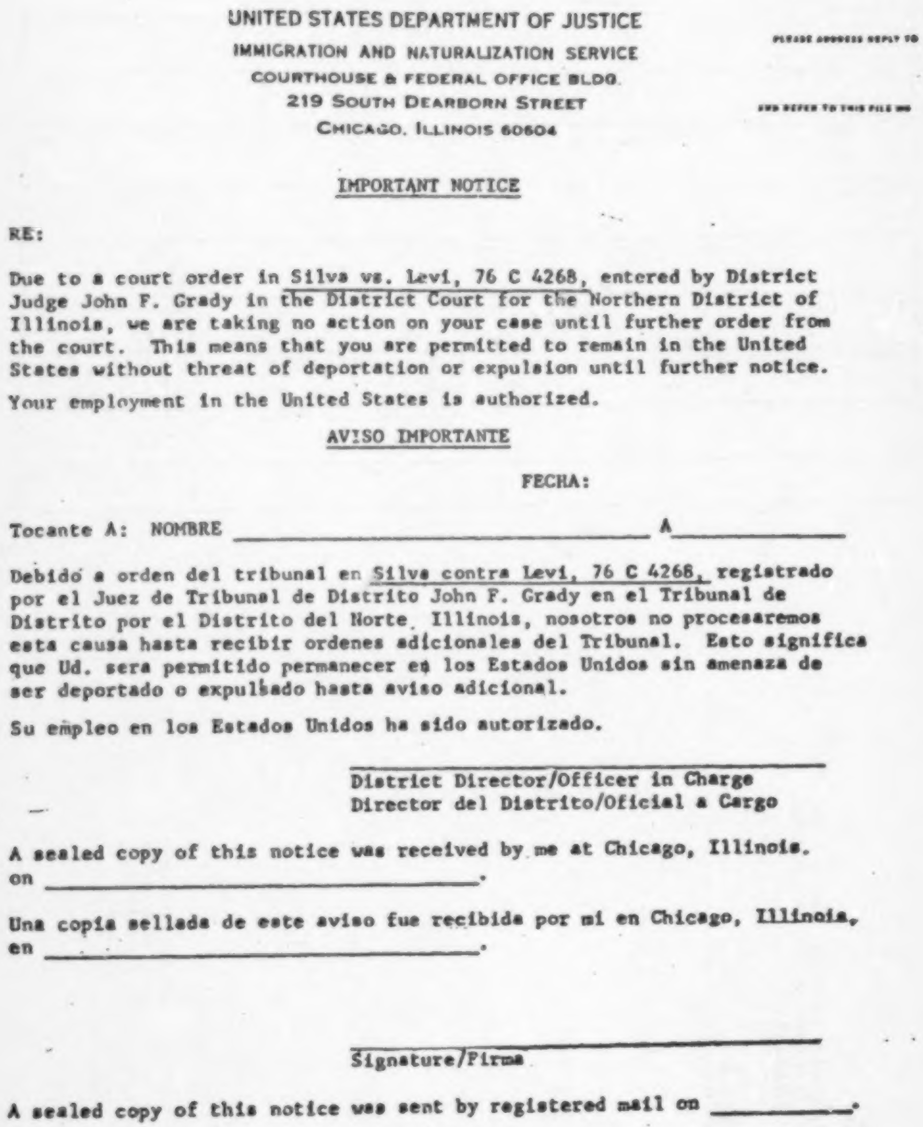


UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
COURTHOUSE & FEDERAL OFFICE BLDG.
219 SOUTH DEARBORN STREET
CHICAGO, ILLINOIS 60604

PLEASE ADDRESS REPLY TO

AND REFER TO THIS FILE NO.

IMPORTANT NOTICE

RE:

Due to a court order in Silva vs. Levi, 76 C 4268, entered by District Judge John F. Grady in the District Court for the Northern District of Illinois, we are taking no action on your case until further order from the court. This means that you are permitted to remain in the United States without threat of deportation or expulsion until further notice.

Your employment in the United States is authorized.

AVISO IMPORTANTE

FECHA:

Tocante A: NOMBRE ______________________ A__________

Debido a orden del tribunal en Silva contra Levi, 76 C 4268, registrado por el Juez de Tribunal de Distrito John F. Grady en el Tribunal de Distrito por el Distrito del Norte Illinois, nosotros no procesaremos esta causa hasta recibir ordenes adicionales del Tribunal. Esto significa que Ud. sera permitido permanecer en los Estados Unidos sin amenaza de ser deportado o expulsado hasta aviso adicional.

Su empleo en los Estados Unidos ha sido autorizado.

____
District Director/Officer in Charge
Director del Distrito/Oficial a Cargo

A sealed copy of this notice was received by me at Chicago, Illinois.
on ______________________.

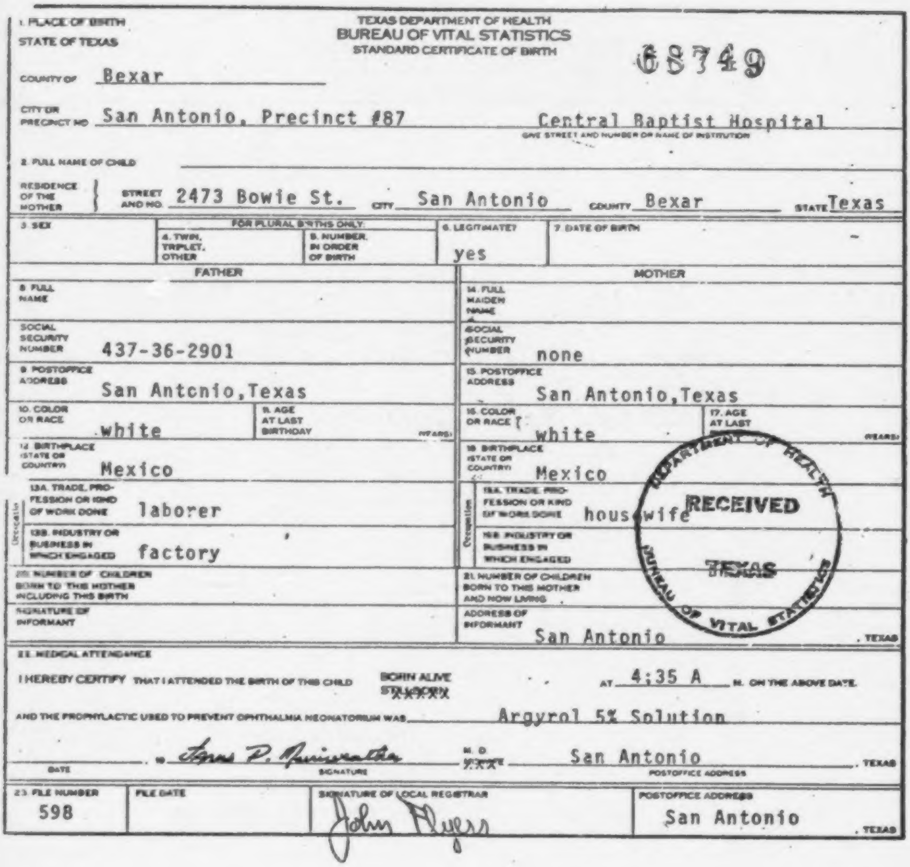
Una copia sellada de este aviso fue recibida por mi en Chicago, Illinois,
en ______________________.

____
Signature/Firma

A sealed copy of this notice was sent by registered mail on __________.

BLANK Silva vs. Levi LETTER

This letter was issued by the Immigration and Naturalization Service as a result of a federal law suit. The District Court ordered that approximately 145,000 aliens would be allowed to remain in the U.S. pending review of their eligibility. Possession of the letter was considered prima facie evidence of resident-status, pending review by the court.



1. PLACE OF BIRTH
STATE OF TEXAS

TEXAS DEPARTMENT OF HEALTH
BUREAU OF VITAL STATISTICS
STANDARD CERTIFICATE OF BIRTH

68749

COUNTY OF Bexar
CITY OR PRECINCT NO. San Antonio, Precinct #87 Central Baptist Hospital
GIVE STREET AND NUMBER OR NAME OF INSTITUTION

2. FULL NAME OF CHILD

RESIDENCE OF THE MOTHER STREET AND NO. 2473 Bowie St. CITY San Antonio COUNTY Bexar STATE Texas

3. SEX
FOR PLURAL BIRTHS ONLY: 4. TWIN, TRIPLET, OTHER 5. NUMBER IN ORDER OF BIRTH
6. LEGITIMATE? yes
7. DATE OF BIRTH

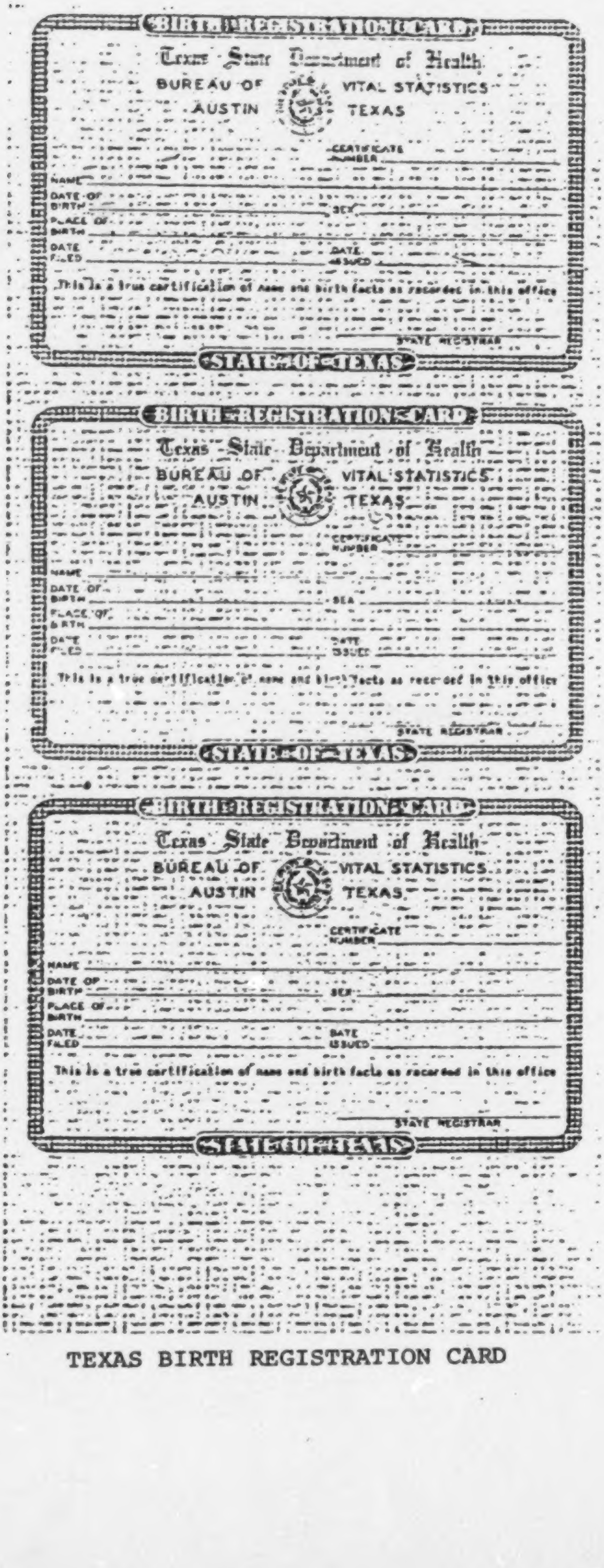
FATHER	MOTHER
8. FULL NAME	14. FULL MAIDEN NAME
SOCIAL SECURITY NUMBER 437-36-2901	SOCIAL SECURITY NUMBER none
9. POSTOFFICE ADDRESS San Antonio, Texas	15. POSTOFFICE ADDRESS San Antonio, Texas
10. COLOR OR RACE white 11. AGE AT LAST BIRTHDAY (YEARS)	16. COLOR OR RACE white 17. AGE AT LAST BIRTHDAY (YEARS)
12. BIRTHPLACE (STATE OR COUNTRY) Mexico	18. BIRTHPLACE (STATE OR COUNTRY) Mexico
Occupation 13A. TRADE, PROFESSION OR KIND OF WORK DONE laborer	Occupation 19A. TRADE, PROFESSION OR KIND OF WORK DONE housewife
13B. INDUSTRY OR BUSINESS IN WHICH ENGAGED factory	19B. INDUSTRY OR BUSINESS IN WHICH ENGAGED
20. NUMBER OF CHILDREN BORN TO THIS MOTHER INCLUDING THIS BIRTH	21. NUMBER OF CHILDREN BORN TO THIS MOTHER AND NOW LIVING
SIGNATURE OF INFORMANT	ADDRESS OF INFORMANT San Antonio, TEXAS

RECEIVED
TEXAS

22. MEDICAL ATTENDANCE
I HEREBY CERTIFY THAT I ATTENDED THE BIRTH OF THIS CHILD BORN ALIVE ~~STILLBORN~~ AT 4:35 A M. ON THE ABOVE DATE.
AND THE PROPHYLACTIC USED TO PREVENT OPHTHALMIA NEONATORUM WAS Argyrol 5% Solution
DATE , 19 SIGNATURE M.D. ~~XXX~~ San Antonio POSTOFFICE ADDRESS , TEXAS

23. FILE NUMBER 598	FILE DATE	SIGNATURE OF LOCAL REGISTRAR John	POSTOFFICE ADDRESS San Antonio, TEXAS

TEXAS BIRTH CERTIFICATE



BIRTH REGISTRATION CARD

Texas State Department of Health
BUREAU OF VITAL STATISTICS
AUSTIN TEXAS

CERTIFICATE NUMBER

NAME

DATE OF BIRTH

SEX

PLACE OF BIRTH

DATE FILED

DATE ISSUED

This is a true certification of name and birth facts as recorded in this office

STATE REGISTRAR

STATE OF TEXAS

BIRTH REGISTRATION CARD

Texas State Department of Health
BUREAU OF VITAL STATISTICS
AUSTIN TEXAS

CERTIFICATE NUMBER

NAME

DATE OF BIRTH

SEX

PLACE OF BIRTH

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STATE OF TEXAS

BIRTH REGISTRATION CARD

Texas State Department of Health
BUREAU OF VITAL STATISTICS
AUSTIN TEXAS

CERTIFICATE NUMBER

NAME

DATE OF BIRTH

SEX

PLACE OF BIRTH

DATE FILED

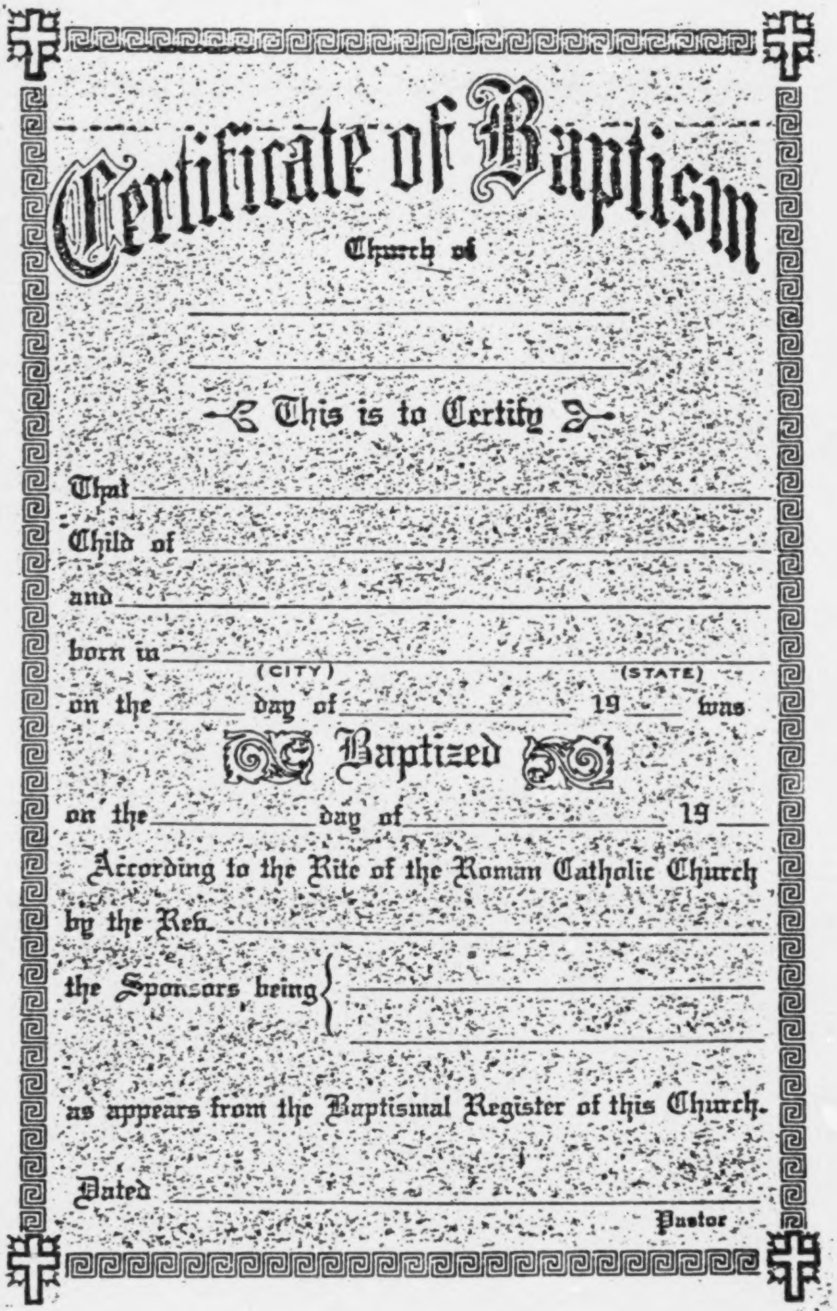
DATE ISSUED

This is a true certification of name and birth facts as recorded in this office

STATE REGISTRAR

STATE OF TEXAS

TEXAS BIRTH REGISTRATION CARD



Certificate of Baptism

Church of

____

____

This is to Certify

That ______________________________

Child of ______________________________

and ______________________________

born in ______________________________
(CITY) (STATE)

on the ______ day of ______________ 19 ______ was

Baptized

on the ________ day of ______________ 19 ______

According to the Rite of the Roman Catholic Church

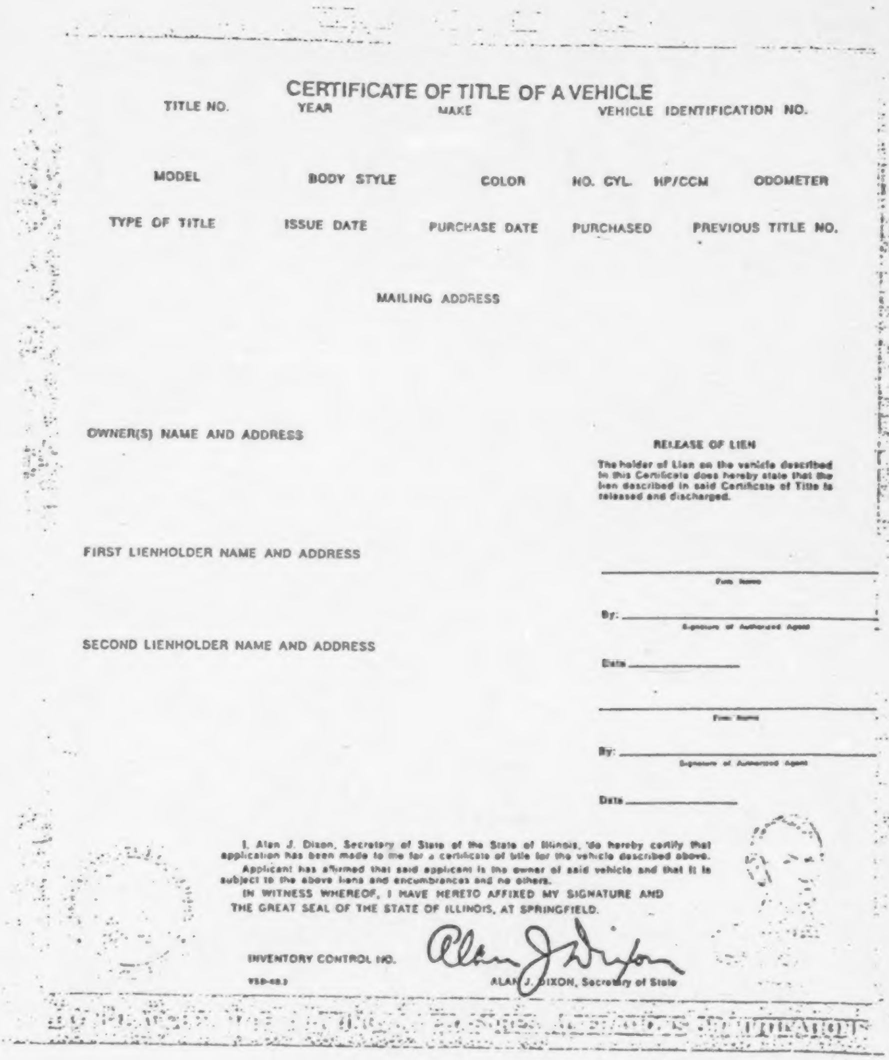
by the Rev. ______________________________

the Sponsors being ______________________________
____

as appears from the Baptismal Register of this Church.

Dated ______________________________
Pastor

BAPTISMAL CERTIFICATE



CERTIFICATE OF TITLE OF A VEHICLE

TITLE NO. YEAR MAKE VEHICLE IDENTIFICATION NO.

MODEL BODY STYLE COLOR NO. CYL. HP/CCM ODOMETER

TYPE OF TITLE ISSUE DATE PURCHASE DATE PURCHASED PREVIOUS TITLE NO.

MAILING ADDRESS

OWNER(S) NAME AND ADDRESS

FIRST LIENHOLDER NAME AND ADDRESS

SECOND LIENHOLDER NAME AND ADDRESS

RELEASE OF LIEN

The holder of Lien on the vehicle described in this Certificate does hereby state that the lien described in said Certificate of Title is released and discharged.

Firm Name

By: ____________________

Signature of Authorized Agent

Date ____________

Firm Name

By: ____________________

Signature of Authorized Agent

Date ____________

I, Alan J. Dixon, Secretary of State of the State of Illinois, do hereby certify that application has been made to me for a certificate of title for the vehicle described above.

Applicant has affirmed that said applicant is the owner of said vehicle and that it is subject to the above liens and encumbrances and no others.

IN WITNESS WHEREOF, I HAVE HERETO AFFIXED MY SIGNATURE AND THE GREAT SEAL OF THE STATE OF ILLINOIS, AT SPRINGFIELD.

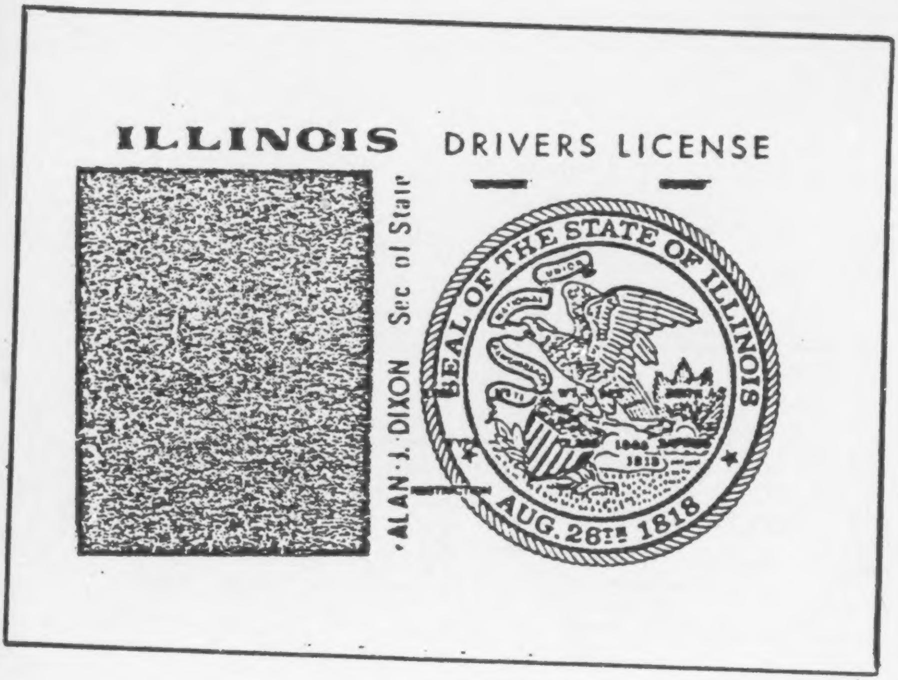
INVENTORY CONTROL NO.

VSD-68.3

Alan J Dixon

ALAN J. DIXON, Secretary of State

ILLINOIS MOTOR VEHICLE TITLE

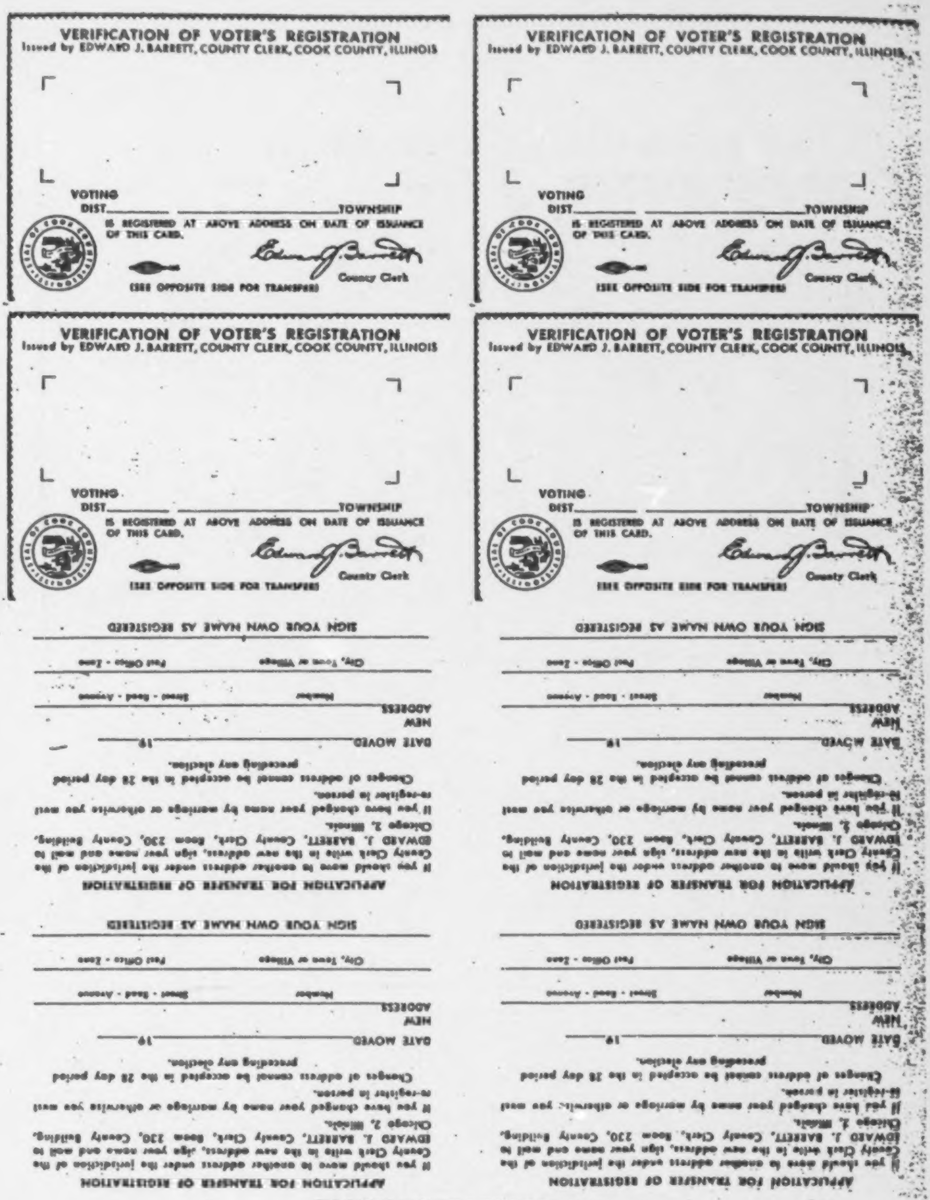


ILLINOIS DRIVERS LICENSE

ALAN J. DIXON Sec of State

AUG. 28TH 1818

BLANK ILLINOIS DRIVERS LICENSE



VERIFICATION OF VOTER'S REGISTRATION
Issued by EDWARD J. BARRETT, COUNTY CLERK, COOK COUNTY, ILLINOIS

VOTING
DIST.________ ____________________TOWNSHIP
IS REGISTERED AT ABOVE ADDRESS ON DATE OF ISSUANCE OF THIS CARD.

Edward J. Barrett
County Clerk

(SEE OPPOSITE SIDE FOR TRANSFER)

VERIFICATION OF VOTER'S REGISTRATION
Issued by EDWARD J. BARRETT, COUNTY CLERK, COOK COUNTY, ILLINOIS

VOTING
DIST.________ ____________________TOWNSHIP
IS REGISTERED AT ABOVE ADDRESS ON DATE OF ISSUANCE OF THIS CARD.

Edward J. Barrett
County Clerk

(SEE OPPOSITE SIDE FOR TRANSFER)

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Issued by EDWARD J. BARRETT, COUNTY CLERK, COOK COUNTY, ILLINOIS

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Edward J. Barrett
County Clerk

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VERIFICATION OF VOTER'S REGISTRATION
Issued by EDWARD J. BARRETT, COUNTY CLERK, COOK COUNTY, ILLINOIS

VOTING
DIST.________ ____________________TOWNSHIP
IS REGISTERED AT ABOVE ADDRESS ON DATE OF ISSUANCE OF THIS CARD.

Edward J. Barrett
County Clerk

(SEE OPPOSITE SIDE FOR TRANSFER)

APPLICATION FOR TRANSFER OF REGISTRATION

If you should move to another address under the jurisdiction of the County Clerk write in the new address, sign your name and mail to EDWARD J. BARRETT, County Clerk, Room 230, County Building, Chicago 2, Illinois.

If you have changed your name by marriage or otherwise you must re-register in person.

Changes of address cannot be accepted in the 28 day period preceding any election.

DATE MOVED____________________19____
NEW
ADDRESS____________________________
Number Street - Road - Avenue
____
City, Town or Village Post Office - Zone
____
SIGN YOUR OWN NAME AS REGISTERED

APPLICATION FOR TRANSFER OF REGISTRATION

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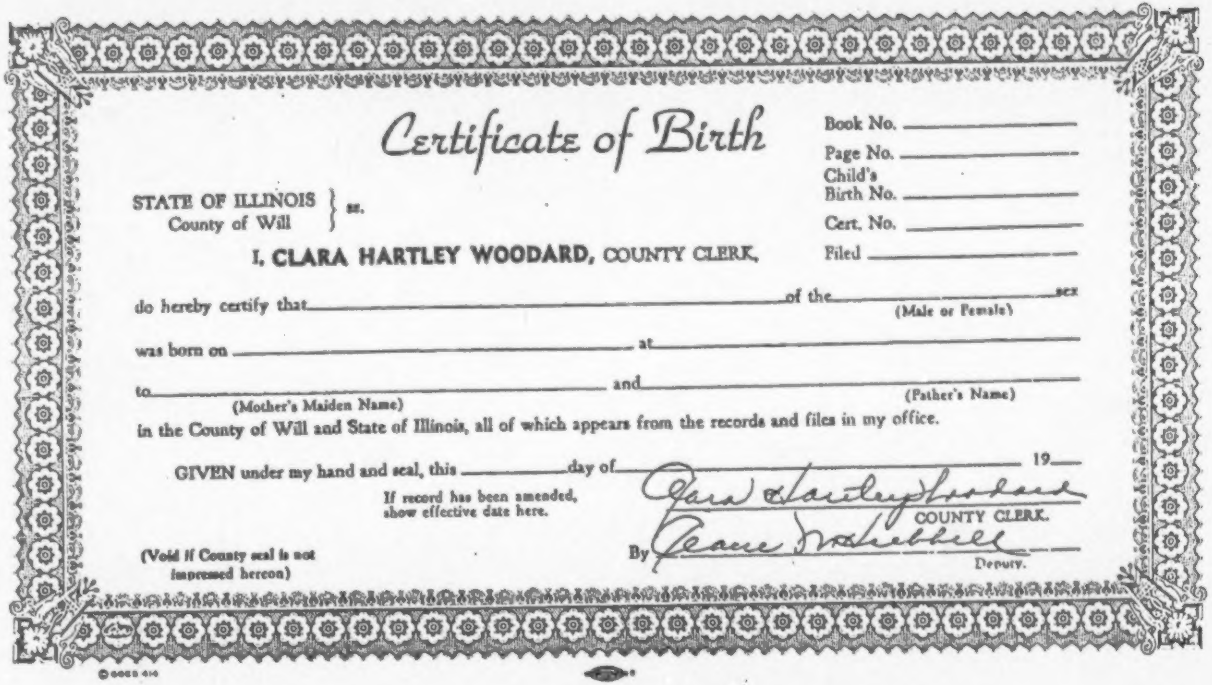
DATE MOVED____________________19____
NEW
ADDRESS____________________________
Number Street - Road - Avenue
____
City, Town or Village Post Office - Zone
____
SIGN YOUR OWN NAME AS REGISTERED

ILLINOIS VOTERS REGISTRATION CARD



Certificate of Birth

Book No. ________
Page No. ________
Child's Birth No. ________
Cert. No. ________
Filed ________

STATE OF ILLINOIS } ss.
County of Will }

I, **CLARA HARTLEY WOODARD,** COUNTY CLERK,

do hereby certify that ________ of the ________ (Male or Female) sex

was born on ________ at ________

to ________ (Mother's Maiden Name) and ________ (Father's Name)

in the County of Will and State of Illinois, all of which appears from the records and files in my office.

GIVEN under my hand and seal, this ______ day of ________ 19__

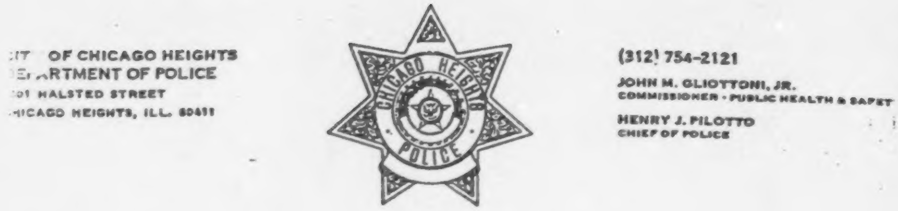
If record has been amended, show effective date here.

Clara Hartley Woodard
COUNTY CLERK.

By ________
Deputy.

(Void if County seal is not impressed hereon)

WILL COUNTY, ILLINOIS, BIRTH CERTIFICATE

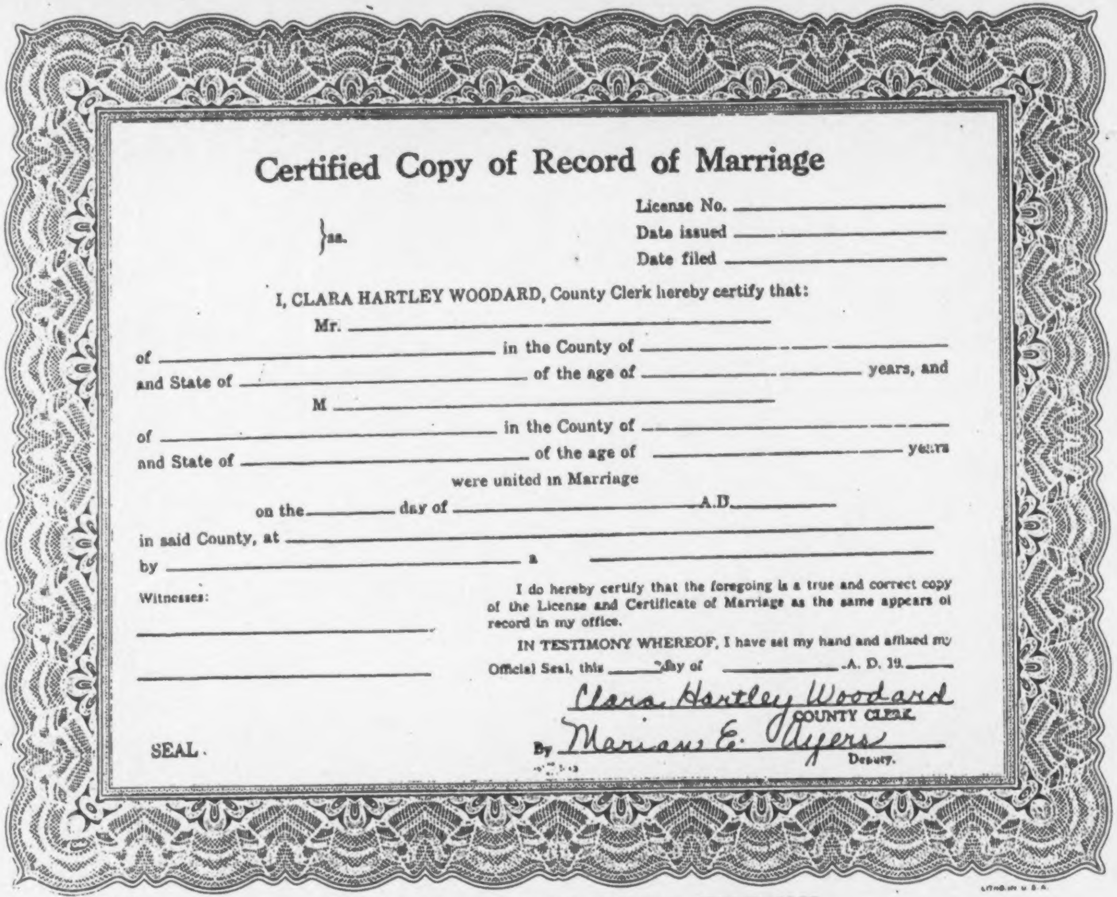


CITY OF CHICAGO HEIGHTS
DEPARTMENT OF POLICE
01 HALSTED STREET
CHICAGO HEIGHTS, ILL. 60411

(312) 754-2121
JOHN M. GLIOTTONI, JR.
COMMISSIONER - PUBLIC HEALTH & SAFET
HENRY J. PILOTTO
CHIEF OF POLICE

CHICAGO HEIGHTS
POLICE

CHICAGO HEIGHTS POLICE DEPARTMENT LETTERHEAD



Certified Copy of Record of Marriage

}ss.

License No. ____________
Date issued ____________
Date filed ____________

I, CLARA HARTLEY WOODARD, County Clerk hereby certify that:

Mr. ____________
of ____________ in the County of ____________
and State of ____________ of the age of ____________ years, and
M ____________
of ____________ in the County of ____________
and State of ____________ of the age of ____________ years
were united in Marriage
on the ______ day of ____________ A.D. ______
in said County, at ____________
by ____________ a ____________

Witnesses:

____

____

I do hereby certify that the foregoing is a true and correct copy of the License and Certificate of Marriage as the same appears of record in my office.

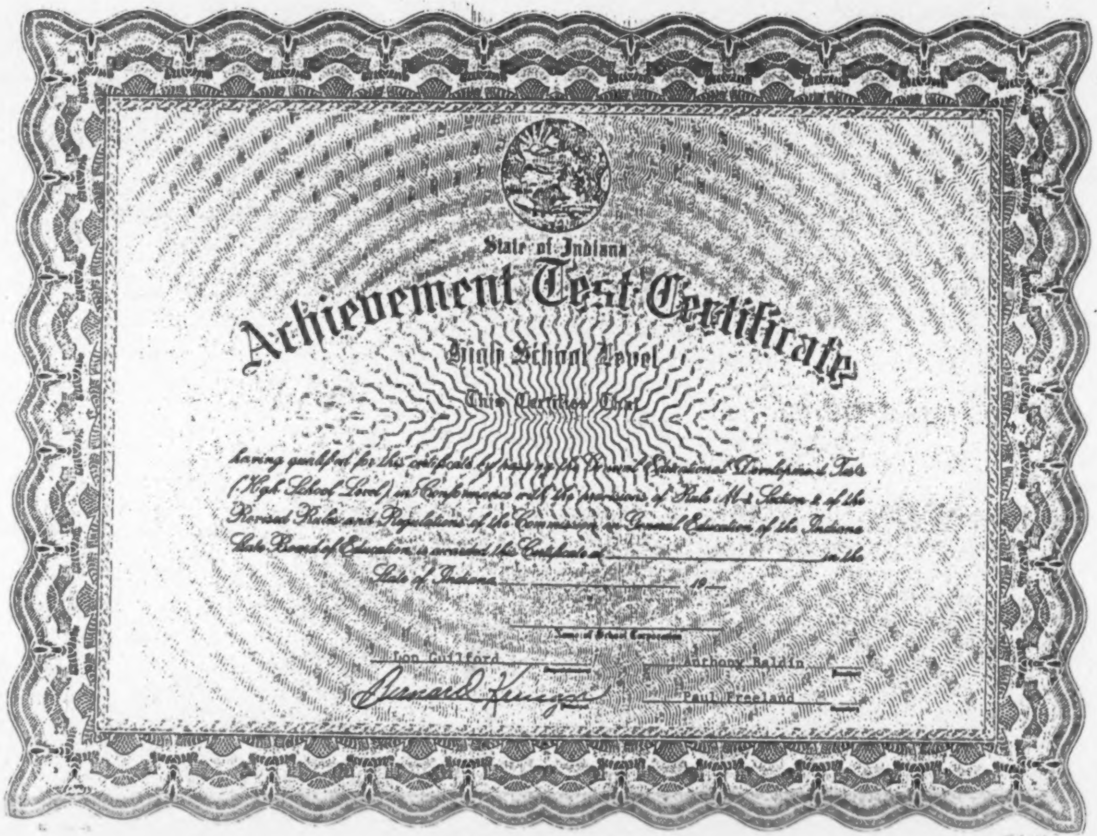
IN TESTIMONY WHEREOF, I have set my hand and affixed my Official Seal, this ______ day of ____________ A. D. 19____

Clara Hartley Woodard
COUNTY CLERK

By Marian E. Ayers
Deputy.

SEAL.

WILL COUNTY, ILLINOIS MARRIAGE CERTIFICATE



State of Indiana

Achievement Test Certificate

High School Level

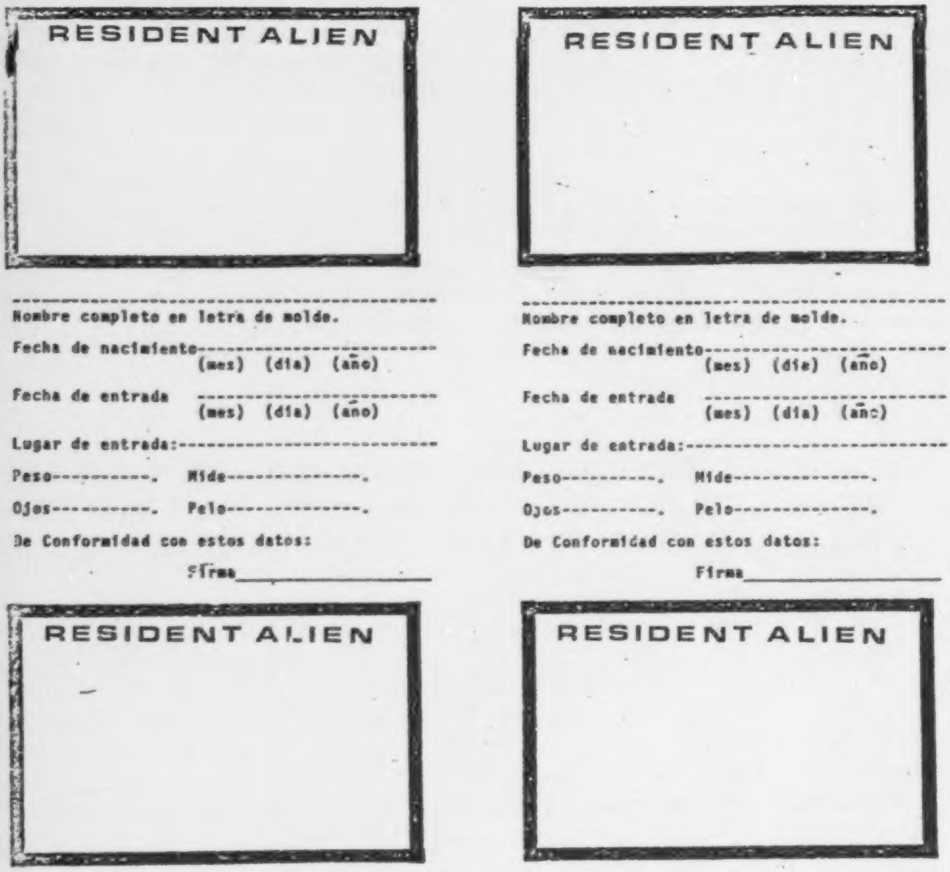
This Certifies That

having qualified for this certificate by passing the General Educational Development Tests (High School Level) in Conformance with the provisions of Rule M-2 Section 2 of the Revised Rules and Regulations of the Commission on General Education of the Indiana State Board of Education is awarded this Certificate at __________ in the State of Indiana __________ 19__

____
Name of School Corporation

Lon Gullford
Anthony Baldin
Paul Freeland

INDIANA G.E.D. CERTIFICATE



RESIDENT ALIEN

RESIDENT ALIEN

Nombre completo en letra de molde.

Fecha de nacimiento--------------------------
(mes) (dia) (año)

Fecha de entrada --------------------------
(mes) (dia) (año)

Lugar de entrada:----------------------------

Peso----------. Mide---------------.

Ojos----------. Pelo---------------.

De Conformidad con estos datos:

Firma__________________

Nombre completo en letra de molde.

Fecha de nacimiento--------------------------
(mes) (dia) (año)

Fecha de entrada --------------------------
(mes) (dia) (año)

Lugar de entrada:----------------------------

Peso----------. Mide---------------.

Ojos----------. Pelo---------------.

De Conformidad con estos datos:

Firma__________________

RESIDENT ALIEN

RESIDENT ALIEN

RESIDENT ALIEN FILE CARD

Van Drunen would prepare a file card for every client who bought an I-551. This would facilitate the manufacture of additional documents.

Mr. **Weiland.** And to clarify for the record Senator Rudman's last question, Mr. Van Drunen, is it fair to say that most of the information you imparted this morning is fairly common street information in terms of your peers in the counterfeiting business?

Mr. **Van Drunen.** I would think so.

Mr. **Weiland.** Thank you.

Chairman **Roth.** That will be all, Mr. Van Drunen. Thank you.

Our next witness is Mr. Joseph Salgado, Assistant Commissioner for Enforcement, and Robert Lockard, Chief Documents Analyst, Immigration and Naturalization Service.

Raise your right hand. Do you swear that the testimony you are about to give before this subcommittee is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. **Salgado.** I do.

Mr. **Lockard.** I do.

TESTIMONY OF JOSEPH SALGADO, ASSISTANT COMMISSIONER FOR ENFORCEMENT AND ROBERT LOCKARD, CHIEF DOCUMENTS ANALYST, IMMIGRATION AND NATURALIZATION SERVICE

Chairman **Roth.** Please be seated.

Your statement if you can summarize—time is moving on. Please proceed.

Mr. **Salgado.** Good morning, Mr. Chairman, members of the subcommittee. I am pleased to be here today on behalf of the Immigration and Naturalization Service and give you a brief overview of documents fraud and its impact on Government operations.

From the INS perspective, documents fraud is increasing in two major areas. One, in the gaining entry into the borders of the United States by people not legally entitled to enter into the United States and, two, once those individuals are in the United States illegally, they can apply for and obtain benefits that they are not entitled to. Once inside the United States, fraudulent documents enable a person either legally or illegally in the United States to support claims of legal residence and gain benefits from Federal, State, and local benefits.

INS case files, and Mr. Van Drunen's colorful testimony today, indicate that documents fraud is very sophisticated and that a wide variety of official documents are subject to fraud. As you will see later, it encouraged Mr. Van Drunen to make alone in excess of 100,000 fraudulent documents. Our investigation, titled "Project Baltimore," revealed that approximately 50,000 persons fraudulently obtained social security cards. In other cases, two school officials, one a professor in criminal justice, were convicted last year for fraudulent issuance of certificates of eligibility for foreign students.

The advent of the new alien registration receipt card, the I–551, of which we have had and will probably have additional discussion, and the new border crossing cards are two major documents used for legal entry into the United States. However, there are many other documents used to gain entry which are subject to fraud, such as immigrant visas, passports, birth certificates, marriage certificates, the old identity card which is commonly known as the green card.

Along some of the border areas, the most popular method to obtain documents and gain entry through illegal status in the United States is to purchase one or more counterfeit materials from a vendor, the so-called package deals. These cost anywhere from $50 to $300 and may include a counterfeit I–551 and the social security card as demonstrated by the exhibit. The package itself sells from $50 to $300.

The trends of immigration along the border zone has produced a profitable market for the alien smuggler, the person who deals in human cargo. Large alien smuggling rings have emerged with such sophistication, construction, and organization that the ring now not only offers numerous benefits, it recruits illegal aliens in foreign countries, provides them with false documents, smuggles them across the border, and acts as a job placement service. With increased sophistication of fraud, the detection of bogus documents has become more and more and more difficult. And INS has waged a continuing battle to control their use. To aid in detecting this type of fraudulent activity, INS did take affirmative steps in the establishment of a forensic document laboratory in 1979 to provide INS officers with scientific and technical expertise in the complex art of documents fraud.

This laboratory is part of the intelligence branch in the INS Enforcement Division.

[At this point, Senator Cohen withdrew from the hearing room.]

Mr. SALGADO. Even though the laboratory is still in its developmental stages, there are three major areas in which it currently provides and will continue to provide excellent assistance. No. 1, on the authentication of documents, No. 2, expert testimony in criminal prosecutions, legal proceedings and hearings such as this, No. 3, the training of personnel in the detection of fradulent documents.

Based on actual evidence received in fiscal year 1982, the chart depicting the United States clearly demonstrates that the document fraud problem is uniformly spread across the United States, its territories and is not limited to the border areas of the United States. Under the leadership of Mr. Alan Nelson, the Commissioner for Immigration and Naturalization Service, we have tried and are continuing to take a more aggressive posture toward combating documents fraud through enhancement of this laboratory and through our investigative resources.

The laboratory will soon move out of its temporary quarters to a permanent site. Once this is achieved, Mr. Lockard and other individuals will be greatly enhanced.

One of the first questions we received was from the special investigations in the Department of Justice to examine and authenticate 40-year-old documents of alleged Nazi war criminals. The examiners have testified at numerous hearings and continue to testify.

In addition, the laboratory, on a routine basis, has provided assistance to other Government agencies, including the Department of State, FBI, and the Department of Health and Human Services. To exchange and to enhance information, Mr. Lockard, who is seated at my right, has initiated a consortium of all Government agencies in the Washington area who have an interest in the problem or have a problem with documents fraud. Most recently, I met with representatives of several other Government agencies and had discussions on the use of the I-94, which is an INS arrival and departure record, as an identifying document.

We are continuing this meeting with representatives of the Department of Agriculture, Social Security Administration, Health and Human Services, District of Columbia Bureau of Motor Vehicles. The utilization of the I-94 as an identification document, which may allow ineligible persons to obtain benefits, is of great concern not only to the INS but to the representatives of the other agencies. Therefore, we attempted to form a working group to resolve the abuses and problems associated with the I-94.

The INS Forensic Documents Lab is receiving increased visibility and recognition in the national law enforcement community. Mr. Lockard, Chief Documents Examiner of INS, has over 25 years experience and scientific and technical expertise and is here today with me and will answer any of the technical questions that you, Mr. Chairman, and other members may have.

I thank you for this time.

Chairman ROTH. During the examination of the previous witness, the question came up about the alien documentation, identification, and telecommunications systems.

Mr. SALGADO. Yes, sir.

[At this point, Senator Rudman withdrew from the hearing room.]

Chairman ROTH. As I understand it, no optical scanners are available to decode the inscriptions that are available to INS or customs inspectors at the ports of entry. What is the point in moving in this direction unless you have the optical scanners? What is the explanation?

Mr. SALGADO. The optical scanner is not currently on line and not currently proposed to come on line. I would propose to you the information provided on the back of I-551 is information which once put into the computer through oral presentation can reveal certain security features that that document has on its face and assist in the detection of a fraudulent document. Currently, remote access terminals are located in 63 cities throughout the United States and will be expanded to 82 by the end of fiscal year 1982.

So during the course of normal operation, an individual on the Border Patrol, as addressed by Mr. Van Drunen, has at his disposal communications. Once he picks up the communications and makes access into the computer he can ascertain whether or not that document is a fraudulent document. So on its face, it does not appear to have some of the blatant misconceptions I believe have been addressed.

So there are possibilities for that communication into the computer system, but we do not have on line the optical scanner. Maybe Mr. Lockard can address it further.

Chairman ROTH. I would like to turn for a moment to the so-called I-94.

Mr. SALGADO. Yes, sir.

Chairman ROTH. My understanding of that is all temporary visitors fill that out but it is something the airlines may print their own version of, so that it is easily duplicated. Isn't this a major loophole?

Mr. SALGADO. Sir, I would agree with you that the I-94 is currently presenting a major problem and a potential for major or actual abuse in the Federal and local system. The I-94 is an arrival/departure document for INS internal use only. It never was intended to be an identifier per se. But you are correct, in effect, the I-94 can be commercially produced by any individual that so wants. I am advised they can be purchased at the Federal printing stores and they are available to airlines. The I-94, if presented, say to the Department of Motor Vehicles in Florida, they will issue you a driver's license based upon the information on the I-94, and so will the Department of Motor Vehicles in Washington, D.C.

I would also indicate the I-94 is received by social security and they will issue a social security card. Given the I-94 and a social security card, you then proceed and receive aid to families with dependent children and/or food stamps. The I-94 was and is not created nor anticipated to be an identifying document but it had been accepted as such by numerous agencies on a Federal and local level.

Chairman Roth. In your testimony, you said that you recently met with officials at the Department of Agriculture. Agricultural officials will accept the I-94 as valid proof of identity for food stamps. Did anyone at Agriculture ever check with INS to determine if this was an identity document?

Mr. Salgado. Mr. Chairman, I have no personal knowledge on that. I am recently on board as the Assistant Commissioner for Enforcement. I do know the problems and the potential abuse for the I-94 situation. This concept was brought to my attention by Mr. Juan Castillo who worked with the Inspector General Office, Department of Agriculture, so there was some either formal or informal knowledge of that and that individual is attempting also to help us address the problem of abuse.

Chairman Roth. Mr. Lockard, I understand you are an expert with respect to the technical aspects of the problem. You heard the testimony of Mr. Van Drunen. In your expert opinion, how good was he?

Mr. Lockard. Mr. Van Drunen's problem, I think it will be a more serious problem in time. He is a dedicated man and I think in time he will improve his techniques and abilities and become a serious problem at that time.

Chairman Roth. The INS has spent a great deal of time and money developing I-551 as a tamper resistant document. However, Mr. Van Drunen and others developed copies which have come close to it. What is the problem with I-551?

Mr. Salgado. From a technical aspect, I would defer to Mr. Lockard. I would indicate to you any documents bearing any good or similar resemblance—I think probably the key fact with the 551, Mr. Chairman, does reside in the security measures that have been implanted on the back of the documents. Any documents as presented, whether it is good, bad, or indifferent, it's real worth, value, is probably in direct proportion to the individual examining that document and that goes with the training of our personnel and other personnel.

As to the technical aspects, I would defer that to Mr. Lockard.

Chairman Roth. Would you care to comment?

Mr. Lockard. Sir, I brought photographs. First, the specimen card and Mr. Van Drunen's work related to Mr. Sanchez. He made several attempts to perfect the color hues, but you can see basically between the two, when you have the both of them together, there is a question of quality. I am going strictly on the superficial observation of this particular document, not without any instrumental checks or anything else.

This is just a glance, inspection visually. I think it is a matter of time before he perfects that. As you see from my photograph, I did a better job, yet my equipment was much better than his.

Chairman ROTH. Let me go back and ask you, Mr. Salgado, are you aware of any program in the Government at this time to make those responsible for administering the various benefit programs aware of the problem with these identity documents and, if so, what are these programs, what is being done in this area?

[At this point, Senator Rudman entered the hearing room.]

Mr. SALGADO. In all honesty, no, I am not aware of any concentrated, sophisticated effort to do it. Essentially, I don't know if we are trying to address this problem on cross-interagency borders or not. The first attempt, was Mr. Juan Castillo contacting us to establish a working group and possibly a test project and test area with relation to the I-94. But essentially I am not aware of any other cross-agency or interagency efforts to coordinate this effort.

Chairman ROTH. In view of the widespread problem that seems to permeate our entire country and involve all types of benefit programs, to me that is outrageous, unbelievable that something hasn't been done in this area. I am not blaming you personally.

Mr. SALGADO. I have been blamed for a lot of things recently. The President's Commission on Fraud, Waste, and Abuse has tried to address some particular aspect of it. We have done some easy work, interfacing of computers and things like that. But the broad spectrum of documents fraud, per se, I don't believe has been addressed and does have to be addressed. It is a complex area we are dealing with, who provides the identifier and who is entitled to the benefits. It just permeates itself from that point on, but you are correct, sir.

Chairman ROTH. You heard the predictions, the guesstimates of the previous witness as to the number involved in the Chicago area. How widespread do you think this is throughout the United States?

Mr. SALGADO. Sir, I probably could only speculate and then I will go to my reference indicating that INS projects there were approximately 3 to 6 million illegal aliens in the country, and I would only estimate and stand to be corrected, probably anywhere from 50 to 75 percent have fraudulent documents on their person at one time or another. Many times when we arrest illegal aliens, of course, fraudulent documents are long destroyed or long gone.

Chairman ROTH. What recommendations would you make for this subcommittee to take at this time based upon your knowledge of this problem?

Mr. SALGADO. There has to be an interagency working group established at the highest level with a commitment toward addressing the problems we are faced with. I think right now we suffer from a lack of flow of information, a lack of intercooperation on technical expertise and I think that is the first step. Once we can define the problem, I think we can proceed to attack the problem at its most vulnerable point. The problem is so widespread that we have to view the problem and then maintain some effort. I think the new legislation, if passed, will afford us an opportunity with a fresh start to address some of those problems.

[At this point, Senator Chiles entered the hearing room.]

Chairman **Roth**. Senator Rudman.

Senator **Rudman**. Mr. Salgado, these are not new problems—I know you are relatively new in the agency—but these are not new problems suddenly discovered this morning at 10 o'clock. They have been going on for years. People are taking this Government for student loans, social security benefits, unemployment benefits, food stamps.

We have no idea of the extent of this. And what I don't understand is why, and maybe Mr. Lockard can answer this, why go to all the trouble of printing those cards with computerized information to be read by scanners and then not buy the scanners? Can somebody explain that to me? I would like to understand that. That to me is inexplicable. Do you know why?

Mr. **Lockard**. No, sir; I don't.

Senator **Rudman**. Do you know why, Mr. Salgado?

Mr. **Salgado**. All I know is the optical scanner has been put on the shelf and not on line now. The card itself was developed during previous administrations and at particular times dealing with a necessity for energies, resources have been directed toward the utilization and expanding our computer capability. Having that computer capability, given the alternative to the option of putting it into a computer, not optical scanner, but input the information on the back of the cards, then we can interface with the computer to find out if that information is valid or not.

We may not be as efficient having the optical scanner handled by the border patrol men, but I think we have the capabilities to address that particular security feature on the card. As I indicated previously, we are expanding those computer capabilities.

Senator **Rudman**. Mr. Salgado, I understand that in the 1970's a fairly extensive program was initiated for acquiring computers, be they inputed by keyboards or scanners, the method of input is really not very important, and that it was botched so badly that the whole thing was scrapped. Really we are starting from ground zero again, is that correct?

Mr. **Salgado**. It is my understanding on hearsay, sir, that that is a correct statement, that there was a report highly critical of INS at that particular time and indicating there had to be additional safeguards and that moneys and allocation of resources for the ADP plan is off the ground and we are moving forward.

You are correct in your initial statement.

Senator **Rudman**. Mr. Salgado, the problem really isn't as difficult as maybe you paint it. Let me point out to you that any police officer in this country can pick up a radio in his squad car or her squad car, take a telephone and call headquarters and inside of 1 minute from the NCIC system can get a listing of criminals, a listing of stolen guns, or stolen television sets—a very simple system. Software for a number of identification corroborations have existed in this country since 1968.

Why hasn't INS at least gone to that kind of a system to put the numbers into the system and at least have someone able to confirm. That does not require state of the art. It does not require any great mathematical genius. It requires buying an existing package, putting it on line so we at least have something so our previous witness couldn't go out and make whatever he made a year selling phony I.D.'s. Why isn't that being done?

Mr. SALGADO. Senator, with all due respect, having spent 6 to 8 years on the street with that handheld radio, I would indicate it is not as simple as picking up the radio. NCIC would not input alien documentation. It is prohibited——

Senator RUDMAN. I understand that. I am saying why not a similar system?

Mr. SALGADO. We are working on that. That is a MIRAC, that is, master index remote access. We only have 63, 64 terminals on line now. By the end of fiscal year 1982, we will have on line 82 to 84 additional terminals. We are moving ahead to address the particular problem, which isn't the solution, but we are moving ahead with it. That thing does not come on line overnight. We are moving toward that computerized system.

Senator RUDMAN. At what point, Mr. Salgado, will we be able to take a card that has a number on it, have an agent punch that number into a keyboard and get confirmation whether or not that is a valid card? At what point will we have that?

Mr. SALGADO. I do not have that answer for you. The 5-year plan, the ADP is for 5-year implementation of computers. I will ascertain from operations support and submit that to you at a later time.

Senator RUDMAN. Will you supply that for the record? Let me correct something you have said. I had personal experience with NCIC and I will tell you, from my point of view, it worked very well in doing what it was supposed to do. It is an information retrieval, corroboration system to work in the simplest form in the field. That is exactly what we need here because until we have it, there are going to be Mr. Van Drunens all over the country putting out phony cards subject to no confirmation whatsoever, continuing to bilk this Government of billions of dollars. I think there ought to be a high priority, and I would like your answer for the record: First, as to when the present system can be deployed; second, how much additional funds you need to do it faster; and third, why it hasn't been done already? I would like those three questions answered.

Mr. SALGADO. You shall have them, sir.

Senator RUDMAN. Thank you.

[Letter received just prior to printing to Senator Roth, Jr., from the Immigration and Naturalization Service containing information on the ADIT program may be found in the appendix on p. 227.]

Chairman ROTH. Senator Chiles?

Senator CHILES. Mr. Salgado, after listening to your testimony, I want to determine what would be the best device. Would the optical scanner be the best method if you had that, as opposed to the computer?

Mr. SALGADO. I gather, sir, if in fact in a world of technology and if, in fact, we could have every law enforcement official at the Border Patrol, which are close to 3,000, at every point of entry we had individual scanners, I would think the optical scanner in a world of dreams would probably be the most efficient and quickest.

Senator CHILES. I didn't ask you about the world of dreams. I asked you this: As opposed to the computer or optical scanner, would the optical scanner be better?

Mr. SALGADO. The simple answer is, sir, I believe the optical scanner would be a better tool to have.

Senator Chiles. Is the reason we don't have the optical scanner a lack of money?

Mr. Salgado. Sir, I don't know that, to be perfectly honest with you. I know they have prioritized——

Senator Chiles. Who is "they"?

Mr. Salgado. The decision was made by the INS administration.

Senator Chiles. Did you have any input into that?

I thought you were the policyman on this particular question. That is why you are here?

Mr. Salgado. Yes. No. 1, that is the reason I was. That decision was made long before my arrival at INS. That decision has been in place and has not been readdressed.

Senator Chiles. How long before your arrival, during this administration or previous administration?

Mr. Salgado. Sir, I don't know when. Maybe Mr. Lockard, who has been there, can indicate when that decision was made.

Senator Chiles. Can you tell me when you scrapped the optical scanner?

Mr. Lockard. I believe it was about a year ago.

Senator Chiles. Was it a budgetary decision?

Mr. Lockard. I have no personal knowledge, sir.

Senator Chiles. Would you give me a guess?

Mr. Lockard. I would guess yes.

Senator Chiles. Yes.

Mr. Lockard. Because a year ago we were undergoing several cuts.

Senator Chiles. Can you tell me the range of money we are talking about for the optical scanner and why it was scrapped on the basis of dollars? How much money?

Mr. Lockard. No, sir, I have no idea what that is.

Mr. Salgado. Sir, I have no idea. If you so desire, we will furnish that for the record.

Senator Chiles. I would like to know that.

I think the subcommittee would like to know who made that decision, what were the dollars involved? You are saying that some day we will be able to get something like this with the computer. When will that day be?

Mr. Salgado. Sir, the projection I have now is at the end of fiscal year 1982 we will be at 1984 on line. I don't have the exact timetable for the other implementation and whether or not that remote access is going to be at each individual sector. That is the progression of the 5-year plan.

Senator Chiles. That decision, too, is being slowed by money.

Mr. Salgado. I am not quite sure it is slowed by money and/or contracting and/or the money there, I believe, has been allocated for a major commitment. It is a question of progression as to installation.

Senator Chiles. If we were dealing with the optical scanner, we would not be necessarily slowed by any technology; the technology is there today, right?

Mr. Salgado. I would have to defer that to Mr. Lockard. I am not sure of the technology.

Senator Chiles. Is it there, Mr. Lockard?

Mr. Lockard. Yes, sir.

Senator **Chiles**. Is there a device, an optical scanner, that can be bought off the shelf?

Mr. **Lockard**. Not readily, no, sir.

Senator **Chiles**. How long would it take to gear up if INS said that it was ready to purchase some optical scanners and use them at key border points. How long would that take?

Mr. **Lockard**. Sir, I am not familiar with the logistics of that. I know the technical aspects of the documents, post mortem, as it were, after the fact, not in design or manufacturing.

Mr. **Salgado**. Sir, the only thing I can add to that, the operational support, Mr. Kane is the individual who handles our computer work. I believe that is where that information would come from.

Senator **Chiles**. I understand that people come into the country now—may we get some more information?

Senator **Rudman**. I would like to know who the gentleman is sitting in the first row because he is obviously advising the witness, and I would like to know who all the players are?

Mr. **Dixon**. I am David Dixon from the Congressional Relations of INS.

Senator **Rudman**. Thank you very much.

Senator **Chiles**. Did you get some information you can give us?

Mr. **Salgado**. The information Mr. Dixon wanted to address is once we have the optical scanners, in fact, then that optical scanner has to be placed into the computer system for the information to flow back.

Senator **Chiles**. The optical scanner has to be placed into the computer system?

Mr. **Salgado**. The optical scanner will translate what is in the computer system and then it will flow back and give an indication as to whether or not the security information is valid or not.

Senator **Chiles**. Can you tell us how long that will take?

Mr. **Salgado**. Again, sir, I wish I could.

Again, that is out of the enforcement range, per se, and that is a technical range under operational support. If you so desire, then I will provide you with that particular information.

Senator **Chiles**. Do you have any idea how many aliens currently are coming into the United States each week?

Mr. **Salgado**. Sir, I know last year the INS enforcement apprehended in excess of 900,000 illegal aliens. The projection is 3 to 6 million are currently in this country. I do know during our project jobs a couple of weeks ago, 5,000 illegal aliens were arrested. So the actual intrusion to cross our borders on a day-to-day basis, I cannot tell you——

Senator **Chiles**. We know it's a percentage of what we are picking up.

Mr. **Salgado**. Yes; that is correct.

Senator **Chiles**. We know that percentage we are picking up is about 10 percent of the number coming in. That would be a pretty good number if it were that high.

Mr. **Salgado**. I would feel uncomfortable to try to speculate as to the percentage of apprehension.

Senator **Chiles**. We know it has been going on for a number of years. If anything, it is increasing, not decreasing.

Mr. **Salgado**. That is true, sir.

Senator CHILES. Now we are talking about something in the future we may be able to do something if budgetary considerations allow us to do it. Do you have any idea what our costs are in regard to these aliens, what we are paying in regard to subsistence, education?

Mr. SALGADO. Sir, from the information I received from various sources, I believe, in Illinois, the attorney general indicated there were $66 million in unemployment benefits being paid out, and from other various sources it appears some of the cost benefits will be astronomical.

Senator CHILES. Astronomical, and yet budgetary considerations are keeping us from having optical scanners and keeping us from putting a computer into process even though we can do it right now.

Mr. SALGADO. Sir, there may be tactical and operational decision involved in the optical scanner decision, the deletion thereof. It is improper for me to say they were budgetary considerations. I really don't know this.

Senator CHILES. That seems to be the best guess that you and Mr. Lockard can make.

Chairman ROTH. I will point out for purposes of the record that according to the General Accounting Office, projected development operations costs are $67 million through 1984. Several million cards have been issued to permanent aliens at a cost of approximately $30 per card. It does seem to me if we are going to proceed this way it doesn't make much sense unless you are going to have the scanners to implement the system.

We are going to have to proceed. What I would like to do, if it is all right with you, is leave the record open.

Senator RUDMAN. There is one key observation.

Chairman ROTH. Senator Rudman?

Senator RUDMAN. For the record, this gentleman who preceded you as a witness, who is serving time, printed a letter called the Silva-Levi letter. Briefly, can you tell us for the record what that letter is? That is not in the record. That is an important point.

Mr. SALGADO. That is a case decision which came out of the district of northern Illinois.

Essentially, during a period of time, the court restrained us from taking any action to deport aliens in the so-called Silva class. And the class consisted of visa applicants from the Western Hemisphere countries with visa priority dates between July 1, 1968, and December 31, 1976. The court order was based on a finding the State Department improperly allocated approximately 150,000 visa numbers to Cuban refugees and charged them against numbers in the Western Hemisphere quota.

As a result, during this stage, the people in the so-called Silva class were allowed to apply for a letter from INS which served as a temporary permit for them to remain in the United States pending the outcome of the case, and there were approximately 250,000 of these letters that were printed essentially for the Silva class. That is what he was addressing.

Senator RUDMAN. Mr. Chairman, I wanted to point out, if staff would hold up that large chart again, two things. No. 1, the letter was reproduced very easily. There was no coding on it whatsoever, so obviously anyone with a simple offset press could reproduce it.

It was a document that allows someone to stay in this country. That was very sloppy work.

Second, Mr. Chairman, please note this prior witness printed counterfeit franked stationery up at the top, H.H.S. franked stationery. He saved postage and using franked envelopes to send his business around the country. I think those are two observations that ought to be made.

Chairman Roth. Thank you, Senator Rudman. Thank you. We will leave the record open for any additional questions.

The Chair wants to point out we have three more witnesses, so with the indulgence of the other members of the panel, I am going to try to limit the questions to 5 minutes and then we will leave the record open for further questions.

At this time, I would like to call forward Mr. Jack Island, who is a former special agent, Office of Security, Department of State.

Mr. Island, would you please raise your right hand?

Do you swear that the testimony you give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Island. I do.

Chairman Roth. Please be seated. To the extent you can, I would ask you to try to summarize your testimony. If you do so, we will include your written testimony as if read.

TESTIMONY OF JACK ISLAND, FORMER SPECIAL AGENT, OFFICE OF SECURITY, DEPARTMENT OF STATE

Mr. Island. Mr. Chairman, members of the subcommittee, thank you for this opportunity to address you regarding what I consider to be a very large and serious problem—false identification.

My name is Jack Island——

Chairman Roth. Speak into the microphone, please.

Mr. Island. I served as a special agent and security officer with the State Department's Office of Security for almost 6 years and I resigned last year.

[At this point, Senator Chiles withdrew from the hearing room.]

Mr. Island. I was initially assigned to Washington and then was sent abroad to South America to serve in the capacity of a regional security officer working out of the embassies in Venezuela and Paraguay.

Finally, I served over 2 years as a special agent.

Regarding visa bribery, when I arrived to my first overseas post, I learned there were three visa bribery allegations against American Embassy employees in countries within the regional responsibility of my supervisor. I found that two of these cases were over a year old at that time, and one was months old, but they were untouched.

Soon after my arrival, I expressed an interest in actively pursuing and investigating the cases but my Embassy supervisor told me in effect that we in the regional security office were too busy for low priority work.

To my knowledge, these cases were never investigated.

After a year of service at my first post, I was assigned as the regional security officer to Bolivia and Paraguay.

After assuming duties in Bolivia, I reviewed the security files and again found a bribery allegation that had not been investigated, even though it was reported almost a year before my arrival. That allegation was from a confidential Drug Enforcement Administration source.

The narcotics agents who discovered the information dutifully reported the information at least twice to Embassy officers before it became known to the security office, and to myself.

The source knew of an American consular officer who was extorting money and jewelry from oriental visa applicants, both directly and through oriental accomplices residing in Bolivia.

The scheme was a classic one. Qualified applicants would be turned down at the time of application on the basis of a fabricated reason. Those turned away would later be contacted by an outside accomplice of the consul, and would be offered a visa for a price.

Also, ineligible persons knew from street talk who the individuals—the oriental accomplices—were and would approach them for a visa without going through the Embassy at all or through a consul. This procedure required that Embassy records of the ineligibles be erased or overlooked.

As in most bribery cases, the suspect consular employees buffered themselves from direct contact with visa buyers through their outside accomplices.

Recipients of fraudulent visas are hesitant to cooperate with investigators, I found. They fear that admitting the payment of a bribe would render them ineligible for any future visas. If they are already here in the United States they fear deportation.

I knew that the usual State Department methods of overt interviews and record checks would not yield the necessary evidence, so I decided that the best approach would be a controlled visa buy from the American consulate using an informant to try to infiltrate the system, that is, to buy the visa through the outside accomplices.

He would make the contact and, hopefully, acquire the visa with a consular employee's signature or other lead information on it so we could start work with something.

When I proposed my intentions to the Office of Security supervisors in Washington, I found a number of obstacles. First, they tried to discourage me from the approach. Failing that, acquiring permission for the buy was a very time-consuming process.

Then I found that the Office of Security didn't have funds available to acquire electronic surveillance equipment. I had to purchase a tape recorder through normal Embassy procurement channels which advertised my investigation to Foreign Service national employees working in the administrative section of the Embassy. That extended to their friends in consular positions.

I also found the Office of Security had no funds for undercover buys. The funds were ultimately obtained from the operational funds of the Bureau of Consular Affairs.

Last, I was refused permission to conduct physical surveillance of the suspects. Eventually, Embassy officials gave me authority to conduct limited surveillances. These limited surveillances, I might add, gave me most of the evidence or information that I uncovered.

This investigation identified one consular officer, one foreign national clerk and three outside accomplices as being involved in the scheme, but the controlled buy took place too late and was unsuccessful.

By the time the authority and the funds were secured, the suspects had learned of the investigation and had shut down their operation.

[At this point, Senator Rudman withdrew from the hearing room.]

Mr. ISLAND. Later, I learned that many of my confidential telegrams to the Office of Security in Washington regarding the status and direction of this investigation had received unnecessary distribution within the Embassy and my activities were compromised early in the investigation.

This particular case, as with most bribery cases worked by the State Department, never developed to the point of prosecution because of limitations in gathering evidence. There was also an indirectly related parallel scheme uncovered in Argentina at the same time.

In Argentina, there were two consular officers and several foreign national clerks and outside accomplices. Of the participants, only the foreign nationals were prosecuted. The Americans, to my knowledge, were neither prosecuted nor sanctioned administratively.

In my experience, these cases are indicative of a lack of serious attention by the Department of State toward visa fraud and bribery. It seems to me the State Department is unwilling to devote adequate investigative resources or management attention to identifying and eliminating visa fraud and corruption at overseas posts.

Turning to passport fraud, in Los Angeles, where I was assigned for over 2 years, I investigated passport fraud cases whenever I could, despite the State Department's low priority on this area of work.

I found that suspects of passport frauds can often be located through the lead information contained in their applications if the violations are acted on promptly while the suspects are awaiting the issuance of a passport. But unlike other criminal investigators, State Department agents have no authority to make arrests.

When I happened on a suspect during an investigation, I would have to break contact and seek a warrant. The time required for the warrant and the time required to secure the services of a U.S. Marshal to serve the warrant, benefit the suspects—the passport violators—giving them time to once more flee prosecution. They were no longer where I originally found them when I went back to get them, obviously. I wasn't surprised, of course, since most of the people who commit passport fraud are active in crimes such as narcotics, terrorism, and smuggling.

Additionally, the State Department has refused to seek the statutory authority to allow their investigators to carry weapons for self-defense during criminal investigations. I have personally walked into potentially dangerous situations while conducting passport investigations without the benefit of a firearm to protect myself. I soon learned that investigating passports wasn't worth my time because it was not appreciated by management and I was endangering my own safety needlessly. So I took the path most State Department agents take after some time, that is, to avoid passport investigations altogether.

Because of the low priority placed on this activity, the lack of enforcement authority to effectively conduct any given criminal investigation and the internal requirement by the State Department that only interviews and record checks can be used as investigative techniques, State Department agents generally choose to disregard passport investigations. Only cursory attention is paid to them and they are closed as unsolvable as soon as possible.

To the best of my knowledge, the State Department does not seek to maintain or disseminate criminal intelligence data from false passport applications. Given the criminal uses of false passport applications this is essential.

In conclusion, the State Department's failure to adequately address fraud and bribery programs has a much deeper impact on efficient Government than the Department realizes: Street crime and the narcotics trade are flourishing because of easily acquired false identification; the efforts of the law enforcement community in general to bring fugitives to justice is being hampered; and the costs to Government social programs which rely on identity documents must be a burden on the Nation's budget.

I have some recommendations as a former State Department investigator, if I may be allowed to introduce them.

One would be that jurisdiction over passport and visa violations should be given to a law enforcement organization which has full authority to conduct criminal investigations and that such authority should be created within the State Department, if it is deemed appropriate. And if it isn't, then jurisdiction should be transferred to an accredited law enforcement agency already in existence.

This doesn't mean that program administration or the documents issuance process should be transferred, only the enforcement function.

Mr. Chairman, the impetus for a change in policy and procedures within the State Department are not likely to come from within. That has already been tried. I hope that this hearing will serve to give a new direction to this problem.

Thank you for your attention.

Chairman Roth. Thank you, Mr. Island.

I must say, the more I hear and the more I read about this problem, it seems to me there is no policy in Government at any level to be really concerned with this question of fraud and abuse in the area of passports, visas, and so forth.

[At this point, Senator Rudman entered the hearing room.]

Chairman Roth. I agree with you, I think one of the most important things is to try to get the agencies concerned with the problem.

One of my concerns is—let's assume we succeed in changing the policy at the State Department and at the domestic agencies concerned with this question of fraudulent identification. Are we still going to be faced with a problem of tremendous manpower to handle it or is there some way we can have a preventive approach that will not bankrupt the Government in the process?

For example, I think in your testimony, it is mentioned, what was it, 1,000 possible cases of passport fraud discovered each year which originally one-third are sent to the State Department's Office of Security for investigation.

What happens to the other two-thirds and what kind of manpower would you need to fully investigate?

Mr. Island. To my knowledge, the remaining passports not assigned to the security office are farmed out to agencies willing to accept cases on a case-by-case basis. If it is of mutual interest, that is, related to narcotics or another smuggling concern, forgery, aliens, or whatever, then those agencies do some of them. I don't know what number are farmed out. My feeling is that the entire function of passport investigation should be within one agency only, not farmed out to a number of them.

Second, intelligence gathering should also be maintained, and the function should be performed by the one agency charged with investigating passport violations.

As it stands now, though, I don't know what happens to the remainder of the cases. I do know that some are farmed out.

Chairman Roth. The staff, in studying some of these passport cases, noted that they were closed without further action.

Mr. Island. That is true, sir.

Chairman Roth. Because it was considered too dangerous for the office to investigate.

Is that really the end of the matter? Considering the criminal and terrorist use of passports, I am rather shocked these cases can be just closed down.

Mr. Island. I am too, and so are my former fellow agents. The policy came out in writing last year or the year before, I think, that if an agent feels that they have encountered a potentially dangerous situation or potentially dangerous individual, then they should simply withdraw from the case and close it out. That to me is unconscionable. It should be the contrary; the more potentially dangerous the case is or the more violent the suspect, the more interested the Department should be in bringing the case to a conclusion and prosecution.

Chairman Roth. And those cases are not referred to any other agency such as the FBI?

Mr. Island. I have no idea what they do with the cases. I know the security office closes them out. After that, I suspect, they are shelved.

Chairman Roth. In other words, the more dangerous case, the less that is done?

Mr. Island. Precisely, and that concern was expressed to me by a number of agents.

Chairman Roth. We set up recently an Office of Inspector General who is supposed to be responsible for visa fraud investigation.

Do you think the creation of that office will have a significant impact on this problem?

Mr. Island. I think the creation of the Inspector General's Office in 1980 was a step in the right direction, but, as it turns out, it has been detrimental to the effort. It creates one more office for the Office of Security to coordinate with regarding its investigations. It simply has added a layer of bureaucracy to an already top heavy establishment. It leaves the investigators with practically no independence.

I believe the Office of Security and the Office of Inspector General should be combined as one entity. The special agents assigned to the Inspector General, which today are security agents, should be given statutory enforcement authority and authority to carry firearms as necessary to conduct investigations. But this has been a move which has been traditionally rejected and opposed by the State Department in my 6 years of experience.

Chairman Roth. How many cases have been brought against the U.S. Consular officers for selling visas overseas?

Mr. Island. I don't know the answer to that question, sir. I have heard a figure in the area of 30 allegations per year, or 30 cases open at one time. I don't know what period of time we are talking about. I've heard at least 30 per year, but I think that is only the tip of the iceberg. But I don't know how many have been prosecuted.

The allegations are not sought after. Information about visa bribery is not sought after by the security office overseas. They come to the State Department gratis. The security officers don't look for that information.

If it was sought actively, if there was a criminal intelligence system, it probably would triple in my estimation, or the figure could be even higher.

In my experience overseas, I came into personal contact with six such allegations. Of the six, three were, to my knowledge, never investigated. Of the other three, one was unfounded and the remaining two allegations against some American officers were substantiated. Allegations against Foreign Service nationals working out of the embassies and their outside accomplices were proven and the individuals were taken to court in the appropriate countries, overseas, but the Americans were never seriously looked at.

Chairman Roth. You spoke of 30 cases. You mean 30 allegations?

Mr. Island. Thirty allegations known to headquarters in Washington. That figure comes to mind from a visit I paid to headquarters possibly 2 years ago—when I first returned from overseas.

Chairman Roth. In other words, you are saying if we had tighter policy directives with respect to these overseas officers, we could do a lot to straighten out the problem?

Mr. Island. I am saying if the security officers overseas were given the funds and authority necessary—say, for example, a confidential informant fund to buy information—they would probably uncover some tremendous figures regarding allegations that in many cases would be proven to be well founded. Information doesn't come free except when a visa applicant is turned away; that is when they become concerned that their effort to get a visa was not successful because they didn't pay for it. But if they could serve as informants they could be used overseas to seek out evidence.

Chairman Roth. Senator Rudman?

Senator Rudman. I don't have any questions for this witness.

Thank you, Mr. Chairman.

Chairman Roth. Thank you, Senator Rudman.

Our next witness is William T. Murphy of the U.S. Postal Inspection Service.

Raise your right hand.

Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Murphy. I do.

TESTIMONY OF WILLIAM T. MURPHY, ASSISTANT POSTAL INSPECTOR IN CHARGE FOR EXTERNAL CRIMES, WASHINGTON DIVISION, U.S. POSTAL SERVICE

Chairman ROTH. Please be seated.

Mr. Murphy, if you could summarize your testimony, we will include your entire statement as if read.[1]

Mr. MURPHY. I appreciate that, Mr. Chairman.

I intend to highlight just a few points and then respond to any inquiries that you may have.

As you know, the Postal Inspection Service is concerned with the crimes against the Postal Service.

I appreciate the opportunity to talk with you briefly this morning about our activities relating to fraudulent identification systems and in particular, the investigation of some members of the group known as the black Hebrew Israelites.

I would like to stress at the outset we are not investigating the organization as such but are investigating certain crimes committed against the postal system and those investigations have in fact led us to members of that organization.

Our interest began when we noted a significant increase in attacks upon our postal vehicles and upon our collection and relay boxes in the cities of Washington, D.C., and Baltimore, Md. Under the guidance of the U.S. Attorney's Office at Washington, D.C., an informal task force of interested agencies and organizations was developed in the beginning of 1981.

Some of the more peculiar aspects of this situation are that when mail is stolen, in addition to Government checks, there are also personal checks and articles of information, personal information dealing with an individual's credit status, bank accounts, et cetera, and we have discovered that this information then forms the basis for schemes to convert the stolen checks, and use the stolen credit cards.

We have developed evidence that indicates that members of this group in addition to attacking the mails have, in fact, gained employment with firms, and businesses, for the purpose of stealing, again, identification information and valuable items as well.

For example, someone may seek employment at a travel agency and shortly thereafter disappear and an inventory will reveal a large number of airline tickets have been stolen.

A new bank teller might well appear one day and shortly thereafter, disappear with a number of bank checks and letterheads to be used as credit references for establishing bogus credit.

It has already been mentioned here this morning that a single piece of bogus identification has the capacity to reproduce and suddenly other forms are obtained in the same name and all of which support the identity of the check casher or credit card user.

We found that on occasion it will take too long for an individual to make a legitimate application and I use quotes around "legitimate," that is a fraudulent application for a legitimate piece of identification and it may often be easier to duplicate a series of ID cards.

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[1] See p. 191 for the prepared statement of William T. Murphy.

We found that members of the group have been able to steal blank driver's license applications, and have even gone so far as to obtain a photographing and laminating machine.

Incident to our investigation in the Washington area, we served a Federal search warrant in June of 1981. As a result of that search, we recovered 3,000 personal checks, 100 credit cards, 63 passports, the bulk of which had been fraudulently obtained, 500 birth certificates, 850 stolen airline tickets and another 500 pieces of various identification.

[At this point, Senator Rudman withdrew from the hearing room.]

Mr. MURPHY. Interestingly enough, there was also stationery and letterheads from Congressmen and Senators included in the recovery, as well as a series of what appear to be classroom notes taken during a course on how to commit certain types of crimes.

I heard discussion this morning about food stamps and ATP cards, which both are attractive items to be stolen from the mails and in some instances now, we have in our investigations traced those back to suspected members of the black Hebrew Israelites.

One of the major problems we have in a case such as this is the transient nature of the individual, and the short-lived schemes that are in operation. It is necessary to view it in an accomplished fact situation to gain overall perspective.

Therefore we are sometimes arriving after the crime has already been committed.

The members, that we have identified, are often very specialized in their ability. Some steal, some prepare fictitious identification, others open bank accounts and negotiate documents; others are involved in the relocation of individuals who are wanted by the police.

Others are involved in removing some of these wanted Israelites with Israel being a favorite destination. We also notice a sincere loyalty in that no one who has been arrested and convicted has cooperated with the authorities.

The complexity of the organization, the crimes and the investigations make it difficult for prosecution, for details must be recounted for each prosecuting attorney.

In sentences, we have seen things from 8 years' imprisonment down to 1 years' probation. Most of the convicted individuals have no prior criminal records, they are well educated and they are capable of understanding the intricacies of the identification process that they are involved in.

Federal agencies have been working on this investigation. The Postal Inspection Service, the FBI, State Department, and Secret Service, as well as many local groups, local police agencies, credit card groups, et cetera.

We have been in almost daily contact with State Department personnel.

Passport fraud is perhaps one of the more frequently seen violations here. I would just take the time to show three exhibits to point out how a member of the group whose true identity is shown on the far left with a legitimate birth certificate has obtained a passport shown in the lefthand corner of the chart.

The same individual, as you can see from the photographs, moving over to the center chart, uses the name, James Lee Lucas, and on the far right, has changed the name to Howard Leon Maple.

All the photographs are the same person. On the "convicted" chart on the far right, we see the result in the issuance of a passport in the name of Howard Leon Maple.

Because there are so many different crimes in this particular operation, it is difficult for us as one agency to become involved in all of the various investigations. To compensate for that and to facilitate the return of the fugitives who have gone to Israel, we have initiated discussions with the Department of Justice in the hope of a more formal task force.

From the Postal Inspection Service viewpoint, we are striving for the elimination of postal crimes and we offer ourselves as a resource of whatever intelligence gathering we may have to other interested agencies.

In closing my summary, I would like to comment, the Postal Service has had an interest in bogus identification and its effect on the public.

We have embarked on a consumer campaign and a business education process whereby we try to present graphics, guest speakers, et cetera, to various agencies in order to help them educate and protect themselves.

Once again, Mr. Chairman, I appreciate the opportunity to speak with you and I would like to answer any questions.

Chairman Roth. Inspector Murphy, I am interested in your ongoing prevention program.

Is that directed primarily at the private sector, the business community, or is it directed at other Federal agencies?

Mr. Murphy. Of course, if a Federal agency had need of something like that we would be happy to work with them, but, primarily, we deal with banks, credit card issuing organizations, local community groups, et cetera.

We are trying to make the public aware that they should be careful with any kind of financial transaction particularly those that include the aspect of identification.

Chairman Roth. For example, you talk about the seizure in Maryland. After that happened, is there any program or policies to get in contact with other Federal agencies so they are aware of the fraud that you discovered?

Mr. Murphy. You mean the search?

Chairman Roth. Yes.

Mr. Murphy. After we completed the search, and the inventory was returned on the search warrant, we did contact, I believe, 16 Federal agencies, that is Federal and State agencies, plus a number of businesses to come and review the inventory of materials we recovered.

Chairman Roth. In the case of the fugitives, the black Hebrew fugitives that are in Israel, you mention in working with the Justice Department.

What kind of cooperation are you getting from the Justice Department or State Department in trying to have them extradited to the United States?

Mr. Murphy. We receive a great deal of cooperation from the Departments. Obviously, as the investigating agency and enforcement agency, we would like to see the people brought back immediately, but I think in realistic terms, there are some problems that arise with both extradition and deportation that cause State and Justice to be unable to bring the people out immediately.

Chairman ROTH. Have you succeeded in bringing any of them back yet?

Mr. MURPHY. No, not as yet.

Chairman ROTH. Has that effort been made by the State Department?

Mr. MURPHY. It is an ongoing effort, yes. We haven't achieved deportation, as I say, at this point or extradition, for that matter.

Chairman ROTH. Thank you, very much, Inspector Murphy. I appreciate your being here today.

Mr. WEILAND. I would like to clarify one thing, Inspector Murphy, for the record.

You mentioned in the June 1981 search, you recovered some letters with congressional letterheads.

How did that letterhead get there? Was it counterfeit? Was it stolen? What was the story on it?

Mr. MURPHY. To the best of my knowledge, it was stolen. It was probably taken by an employee of a Congressman or possibly by a visitor to the office. It would then be used as a reference for employment, that type of thing. I have no indication it was counterfeit.

Chairman ROTH. Thank you, Mr. Murphy.

[Whereupon at 12:10 p.m., the subcommittee recessed, to reconvene at 9:30 a.m., Wednesday, June 16, 1982.]

FEDERAL IDENTIFICATION FRAUD

WEDNESDAY, JUNE 16, 1982

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met at 9:30 a.m., pursuant to recess, in room 3302, Dirksen Senate Office Building, under authority of Senate Resolution 361, dated March 5, 1980, Hon. Warren B. Rudman presiding.

Members of the subcommittee present: Senator William V. Roth, Jr., Republican, Delaware; Senator Warren Rudman, Republican, New Hampshire; and Senator San Nunn, Democrat, Georgia.

Members of the professional staff present: S. Cass Weiland, chief counsel; Eleanore J. Hill, chief counsel to the minority; Katherine Bidden, chief clerk; Chuck Morley, chief investigator; Howard Cox, staff counsel; Karen Hainer, staff investigator; Julian Granger, staff investigator; and Jack Key, chief investigator to the minority.

Senator RUDMAN. The subcommittee will now convene for the second day of hearings in the area of false identification which, of course, is used to obtain benefits from a number of benefit programs.

[The letter of authority follows:]

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
Washington, D.C.

Pursuant to Rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the Chairman, or any Member of the Subcommittee as designated by the Chairman, to conduct open and/or executive hearings without a quorum of two members for the administration of oaths and taking testimony in connection with hearings on Federal Identification Fraud to be held on June 15 and 16, and September 23, 1982.

WILLIAM V. ROTH, Jr.,
Chairman.

SAM NUNN,
Ranking Minority Member.

Senator RUDMAN. We had a full day of hearings yesterday. We are going to start today with Mr. Daniel Lane, Office of Inspector General, Department of Health and Human Services, and Mr. Walter Hempel, who is from INS.

I wonder if you two gentlemen would like to come forward.

We do give an oath here of various kinds and will you gentlemen swear or affirm the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LANE. I do.

Mr. HEMPLE. I do so affirm.

Senator RUDMAN. Fine, be seated.

TESTIMONY OF DANIEL F. LANE, INSPECTOR, OFFICE OF INSPECTOR GENERAL, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; AND WALTER T. HEMPEL II, CRIMINAL INVESTIGATOR, IMMIGRATION AND NATURALIZATION SERVICE, NEWARK, N.J.

Senator RUDMAN. Gentleman, we have your statements here and the entire statement will be incorporated in the record.

If you, Mr. Lane, would like to start off and summarize your statement, we would appreciate that.[1]

Mr. LANE. Good morning, Senator.

My name is Daniel F. Lane. I am an inspector with the Office of Inspector General, U.S. Department of Health and Human Services.

Present with me is Walter T. Hempel II, a criminal investigator with the Immigration and Naturalization Service in Newark, N.J. It is our pleasure to respond to your request for information relating to Project Baltimore.

Project Baltimore is a joint investigative effort by OIG/HHS and the INS with assistance from the Social Security Administration [SSA] and other Federal law enforcement agencies as needed.

Project Baltimore is a program designed to investigate a wide variety of false identification frauds involving illegal aliens and various identity documents.

Our investigations have involved visas, immigration documents, birth certificates, and social security numbers [SSN's] and cards, both genuine and counterfeit.

There are four major operations of this project. First, to pursue successful prosecutions, a small group of highly skilled and motivated individuals conducted investigations. To date, Project Baltimore-type investigations have resulted in 114 convictions and the criminal indictment of 4 others, and 129 other frauds are currently under investigation. Sentences have ranged from probation to 5 years' imprisonment and fines as high as $10,000. Judgments against corporations have totaled over $575,000.

Second, the project has exposed system weaknesses in the issuance procedures of identity documents. This has lead to a tightening of the process and regulations.

Third, it provides training to various Government agencies in fraud detection and prevention.

Finally, Project Baltimore staff developed innovative and sophisticated investigative techniques to identify fraud. However, much more needs to be done.

The frauds uncovered by the project have a direct, but largely unknown, impact on Government benefit programs. We have chosen four Project Baltimore-type investigations to illustrate the ease of obtaining identity documents and some of the ramifications to Government programs. The cases form a slide presentation which we would now like to show.

Senator RUDMAN. Proceed with that, if you will.

Mr. LANE. The four cases we have today all resulted in successful criminal prosecutions. The first case is called the migrant ministry case, New York, N.Y. It involves counterfeit INS documents.

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[1] See p. 197 for the prepared statement of Daniel F. Lane and Walter Hempel.

During the course of our investigations in the New York City area, we came across illegal aliens and nonimmigrant aliens, primarily tourists in the United States who had in their possession an INS I–94. The I–94 indicated that the aliens were refugees and as refugees, were allowed to work in the United States. This I–94 is a counterfeit.

When we questioned the aliens about how they came into possession of this form, they said they had bought it from two priests.

Our investigation focused on identifying the priests and putting an end to their operation.

To do this, we asked the aliens, how did you find out about the priest? They said through advertising in ethnic newspapers, through TV and radio ads.

We traced the source of the advertisements. They were being billed to the Biblical Research Institute Empire in Jersey City. We went to that address and found that the priests had moved. Some of the aliens had letters that they had received in addition to the I–94.

One version of the letter was from the Committee of Concerned Clergy and was signed by a Rev. David Milky.

The address listed on this letter was Fifth Avenue in New York City. When we went to that address, the priests had moved.

Other aliens had a letter from the Associated Missions, International Christian Rescue Committee. The letter had a toll-free 800 number and a list of clergy belonging to the migrant ministry.

This letter was signed by Rev. John Alexander. The purpose of these letters was, if Immigration or any Government agency questioned the aliens' refugee status, the letter instructed whoever was questioning it to contact the clergy who would vouch for the legitimate status of the alien.

The address on this letter, was 229 West 42d Street. We went to that address.

We found it was in the heart of the porno district in New York City. Underneath the movie marquee is the door. Up those stairs is the entire offices of all of those religious organizations.

We went up those steps armed with a Federal search warrant.

Senator **Rudman**. I think you should correct your testimony to say "alleged organizations" so the record is straight.

Mr. **Lane**. Thank you, Senator.

As we went up those stairs with the Federal search warrant, we found the entire staff of the organizations. On the left is Bishop Demetrius, also known as Msgr. Robert Walker, also known as Father Robert.

On the right is his partner, Father John Alexander, also known as Father John or Brother Gregory.

Bishop Demetrius was the organizer and the creator of all of those organizations. They often say that clothes make the man and give a sense of respectability. Basically, what they were running was a con game, and the con game was to sell identity documents to illegal aliens.

When you take away the clothes from the monsignor or bishop, you find Luis Martinez, a Cuban refugee and his partner, John Alexander Busse, an ex-convict from Arkansas.

During the course of the search we found various documents which were very detailed, containing photographs and identifying information of the aliens who purchased those documents.

A review of these records showed that the aliens were from various countries. They were from Jamaica, Mexico, Nigeria, Guyana, and Europe.

The back of the records contained financial information. In this case, on the top line, it showed $100 for an SS, meaning $100 for a social security card, plus $250 for a work permit.

The work permit is the I-94 form with the stamp saying employment authorized, refugee, conditional entry.

The way the alleged priests obtained this document was by getting a standard, easily available I-94 form, going to the stationery store and having a rubber stamp made up.

With that rubber stamp on this document, it now had a value of $250. It is an absolute counterfeit.

With this document, they would take the aliens to the social security offices. At the social security office, they would help the alien apply for a social security card saying that he was a refugee and he would like to work in the United States and show the I-94.

The point of this investigation is that by using a counterfeit INS document, you can get a valid social security card and account number.

Mr. HEMPEL. The *Regina Travel* case was the first case that Dan and I worked on and it was from this case that the Project Baltimore finally evolved. We received an anonymous letter complaining that social security cards were being sold for $100 apiece at this location in New Jersey.

Checking out the business records, we found that the travel bureau was run by Regina Oczkowski, her husband, and sister-in-law.

Most of her clients were visitors from Europe and they were required to have a visa issued by the State Department consulate overseas.

In order to insure that these people were coming for visits and not to work, the State Department generally requires a letter of invitation from somebody in the United States who will take the responsibility for them and take care of any financial needs they may have.

We worked with the consular officer and we investigated several thousand of these invitations and we found the majority were fraudulent.

Either the person doing the inviting was fictitious, the address they were destined to was a vacant lot, the employment didn't exist and in fact, many of the notary seals that appeared on the documents themselves were counterfeit.

Aliens entering the United States present a passport and visa. Immigation inspectors at the airport have very little information to work with when inspecting visitors. Visitors to the United States are not permitted to work.

We conducted a surveillance and found that there was a large number of people every morning waiting for the door to be opened. This steady stream continued into the evening. The aliens would come to the office, pay their $100 and Regina would fill out a social security card application.

This is the exact same form used in the social security offices. Then once or twice a week, the courier would come and pick up the envelope from Regina. This is an actual bribe package that we were able to intercept in this case. It shows money used for the bribe and the social security applications.

We broke them into four different groups, because at this point we realized there were four different handwritings. There were nine convictions in this case. Nine people conspired to form the network.

The bribes and social security cards went to the courier's sister, Joanne Bernius, who was an employee of the Social Security Administration in Passaic. It was her job during the day to code and process applications for social security cards but in essence she ran a de facto social security office in her kitchen. The money would come in for the applications. She then did the necessary processing on the application.

For this she received $25 per card. It is estimated that this particular case produced about 1,000 social security cards, valid, genuine cards.

She also issued a receipt. This served two purposes.

One was that Regina wanted to make sure that she received the services for which she had paid. Second, most of these aliens wanted to go to work as soon as possible and at that time they had to wait 6 to 8 weeks for the card to be sent from social security headquarters.

This particular receipt enables them to go to an employer and get a job while the card is en route.

The next morning Joanne would go to her work; she would process applications for social security cards and at the end of the day mixed the ones she did in the kitchen with the ones she did in the office and all would be sent to the processing center.

The ones that she did at home were indistinguishable from the ones done in the office. The applications would be checked against the master record to see if a number had been generated previously. If there were none, a new card would be printed and sent out.

Regina went one step further to make it more difficult to investigate this case. She had about 55 controlled addresses to which these cards would be sent. So if we tried to find the alien who actually bought the card, all we would come up with was an address where they didn't live. The most popular address she used was this single family dwelling.

This house received 87 social security cards. No bells went off; no investigations were launched. This is Regina's house.

As a spinoff in that case, many of the witnesses worked for an industrial painting firm. That firm was hiring a large number of illegal aliens. As the Senator knows, it is not against the law to hire illegal aliens. In this case, they paid aliens $4 and by union contract, they paid Americans $11. So they made a large profit.

We worked with the Wage and Hour Department with the Department of Labor and were able to get a $110,000 settlement on these wages and taxes.

We also took some of the cards that we could identify as being procured through this ring.

We found over $100,000 in unemployment benefits going to the people who never should have gotten the social security card in the first place.

In the *Regina* case, we are dealing with genuine social security cards. In the *Pedro Martinez* case, we are talking about counterfeit social security cards and immigration documents.

The Border Patrol in Orlando, Fla., arrested an illegal alien. The identification he showed was a counterfeit green card and a counterfeit social security card.

They got in contact with the Project Baltimore people working in Dallas, Tex. Together they traced the documents to the office of Pete Martinez of west Dallas.

He operated the business with his son, Pedro, Jr. As in *Regina*, a lot of these people are well known in the community. Indeed, Martinez considered himself to be somewhat of a community activist.

When you are dealing with genuine social security cards, you have a paper trail and there are many documents you can go through to build your case.

With counterfeit documents, there are no records. Therefore, it is necessary to make undercover buys.

All it takes is money and the cards are exchanged. It is very brief; it is very quick and it is hard to track down.

In this case, the undercover purchase resulted in the buying of a green card, alien registration card. You will note that this is the older model. It is not the one that convicted counterfeiter Van Drunen testified on yesterday.

The older card is easier to counterfeit. It sold for $350 apiece. When a search warrant was executed, we also found that weapons were present and this presents somewhat of a problem since agents of the Inspector General are not authorized to carry weapons or make arrests.

One counterfeit alien green card was found underneath the wall hanging. These were ordered from another location. We never determined the identity of the printer. The social security cards are easy to counterfeit. This is a bag containing 1,124, found in the back of Martinez' office. The counterfeit social security card sold for $20.

All you have to do is type the alien's name on it, put nine digits on it, and sell it. Some benefits can only be accrued by citizens of the United States. Three hundred and sixty-two counterfeit Texas birth certificates were also seized. These could be used for driver's licenses, social security benefits, U.S. passports, for anything.

It isn't really that involved to get into counterfeit documents. You need a source for documents, typewriters, perhaps some protection. The market out there will supply the money.

Mr. LANE. Our final case is the *Universal Visa* case, which occurred in Los Angeles, Calif. This case shows a bypass of the integrity controls at the social security district office level. The Universal Visa investigation involved six conspirators. Universal Visa was run by Frank Richards who was an ex-convict. At the time of his arrest he was carrying two pistols and a knife. During a search of his office a sawed-off shotgun was found by his desk. Also involved in the case was a retired Los Angeles police sergeant, Joseph Guzy, a Los Angeles Superior Court reporter, Joyel Dorando and another ex-convict, Enrique Mangaser.

The fifth member of the conspiracy was Richard's wife, Maria. This is a picture of her opening up Universal Visa in the morning and behind her are the clients. These clients were Mexican illegal aliens who wanted to buy social security cards. The lines outside Universal Visa would continue from morning until night.

Once inside, the alien would fill out the social security application in duplicate. One application was completed with the identifying information; the second one was signed with nothing filled in. Thus, if Universal Visa couldn't process the first application, they would fill in the information and send the second one.

Universal Visa operated just like a social security district office. However, the aliens paid a fee ranging from $15 to $25 for a genuine social security card. We estimate that Universal Visa made approximately $1.5 million selling social security cards during a 4-year period.

This is a surveillance photograph of Guzy who is the baldheaded gentleman and Mangaser, the shorter gentleman. Guzy is carrying a Government-franked envelope containing social security applications, and he is en route to where the applications were processed, a warehouse in west Los Angeles. This is the surveillance photo on a different day of Mangaser entering a warehouse carrying a franked Government envelope containing social security applications.

The sixth member of the conspiracy was Gwendolyn Gay, a Social Security Administration employee. She is shown here entering the warehouse, also. Usually, once a week on Thursday, the six people involved in this case would get together at the warehouse. Gwendolyn Gay is carrying a black book in her hand. The book contains the Social Security Administration codes and procedures on how to process social security applications. She would bring this to the warehouse. The activity at the warehouse consisted of coding and processing social security applications, packaging them in franked envelopes, and attaching appropriate social security mailing labels.

The applications were mailed directly from the warehouse to the social security computer center where they were input into the system. The reason that the case was uncovered was that the computer center received social security applications that looked too good. That is, they were processed too much. A regular social security office wouldn't have processed the applications to that degree. The computer center returned the applications to the social security office listed on the mailing label. The social security office denied sending the applications, and an investigation was initiated.

Senator RUDMAN. Could you explain that when you say the processing was too good? What did they specifically see?

Mr. LANE. There were operations that would only occur at the processing center, such as circling of certain information and putting down instructions relating to coding the applications into the computer system. Gwendolyn Gay had tried to become very sophisticated and overprocessed the applications. That is why the computer center finally uncovered the fraudulent applications.

[At this point, Senator Roth entered the hearing room.]

Mr. LANE. The scheme became more and more sophisticated during the investigation. Initially, the applications were sloppy, and they were probably more readily acceptable because they were like the normal ones. As time passed they tried to get fancier and fancier. During the course of the investigation, our Los Angeles field office intercepted 77,000 applications which were not processed.

We estimate that up to 25,000, possibly 40,000 applications were processed by the computer center and resulted in good social security numbers and cards being issued to Mexican illegal aliens.

The ramifications of social security fraud are concentrated into four areas as we have tried to show you in the slide presentation, namely, employee corruption, illegal aliens, benefit fraud and the creation of false statistical data.

These four cases are a sample of the many investigations conducted by Project Baltimore. In addition, we have a number of proactive investigative computer matches that we are presently conducting.

This concludes our testimony and we are available to answer any questions you may have.

Senator RUDMAN. Mr. Lane and Mr. Hempel, you had a number of very successful prosecutions. I am curious. What were the sentences meted out to these people? Let's take the last case. The woman who worked for the Social Security Administration who was seen conveying various documents to the warehouse in Los Angeles. What was she charged with, and what was the sentence?

Mr. LANE. I am not sure, Senator, as to the exact charges, since I was not personally involved in that one investigation. But she was sentenced to 30 days imprisonment plus a term of probation.

Senator RUDMAN. Thirty days?

Mr. LANE. Yes, sir.

Mr. HEMPEL. The two masterminds in that case were Frank Richards and his wife. Both are fugitives from justice.

Senator RUDMAN. Did she jump bail?

Mr. HEMPEL. They are both in Mexico. Yes.

Senator RUDMAN. They jumped bail so they were never tried?

Mr. HEMPEL. No, sir.

Senator RUDMAN. I assume that the person who was given 30 days and placed on probation is separated from the Service?

Mr. LANE. Yes. She was, Senator.

Senator RUDMAN. I ask the question because we have had some surprises in these hearings and I thought it was worth asking. How about the other cases? What kind of sentences were meted out in those?

Mr. HEMPEL. The strongest sentence we have gotten is 4 years imprisonment which was the case of the priests. Most of these cases are handled through plea agreement and the judge never really gets a chance to see the complexities of the case or hear the witnesses. So a lot of our sentences are probationary.

Senator RUDMAN. We had ample testimony yesterday about fraudulent manufacture of various documents. What have you been able to do to tighten up on the whole process of issuance of these cards? What safeguards are being built into the system? Of course we all know we can never protect the system totally from dishonesty but we can make it more difficult. What is being done in your area?

Mr. LANE. Probably the most important thing we did, Senator, was to increase the awareness in social security that there is a problem. Social Security has made some changes to that system such as, for example, the removal of the blank social security cards that are used to issue duplicates. They have been removed from the social security offices. We presented a different version of the slides to social security management and alerted them to the various types of fraud. The Office of the Inspector General has made many recommendations to social security.

Senator RUDMAN. I just want to say that we are very pleased to have you both here. I think what you have done has certainly been unusual in the sense that it is a rather voluntary interagency effort. You, obviously, have done a good job and have been very innovative. The problem is we just don't have enough people like you.

Chairman ROTH. Thank you, Senator Rudman. I too want to congratulate both of you gentlemen for what I consider to be a very important and innovative effort. I believe that it is essential to have some interagency cooperation in uncovering the kind of fraud we have been discussing here today.

I wonder if you would have any recommendations. As you know, the President recently created a commission to study ways and means of upgrading and eliminating fraud and abuse in Government. It seems to me that this area of fraud involving ID's is a key area for that commission. Would you have any suggestions or recommendations as to how they might try to institute some policies that would be helpful in this area?

Mr. LANE. I have one recommendation, Senator. The problem with social security numbers is that historically Social Security has looked upon the number as an internal accounting number and a social security card as merely a slip of paper upon which they put the number to help citizens in the United States or any aliens remember the number. The importance the social security number has on the American society and Government benefits programs is not fully realized throughout the Social Security Administration.

The recommendation I would have is that when we in our investigations, as well as other agencies uncover social security numbers of people who are deceased, people who created fictitious identities, illegal aliens who fraudulently obtained the card, or nonimmigrant aliens who are not entitled to benefit programs, that a system be created to have a record of these numbers. This information should be given to every agency that pays Federal benefits or issues drivers licenses. To the Internal Revenue Service, so that they will not pay refunds on these numbers. Right now there is no system in the Federal Government to utilize this information.

Mr. HEMPEL. Mr. Chairman, if I may make a recommendation.

Chairman ROTH. Please do.

Mr. HEMPEL. This started out basically as Mr. Lane and I working together and it has grown into something that has been beneficial to the Government. It has been successful. I would like to see more of this type of cooperation. Agencies develop tunnel vision and only see their own violation and sometimes they pass up a very good case because they can't make the case on their own violation. By working together, bringing in other agencies, we are able to catch the criminal and prevent violation of our laws, not just my agency's laws, or Mr. Lane's agency's laws, but any law we can find if that is what it takes to convict these people.

Chairman ROTH. How would you institute this kind of change? I think one of the real problems is that agencies, and many of the people, are really not aware of the dimension of the problem. Or do you disagree with that?

Mr. HEMPEL. I guess that question could be best addressed to the people further up in these agencies than myself.

Chairman ROTH. I notice in your opening statement you said that you were not able to estimate what the impact was on the Government benefit program. Do you consider that to be a significant figure insofar as the costs of these programs?

Mr. LANE. I think it is a very significant figure, Senator.

Chairman ROTH. Would you share that concern?

Mr. HEMPEL. Yes, sir.

Chairman ROTH. Gentlemen, I again want to congratulate both of you for your initiative. I think it is important that we follow this kind of leadership in Government, and get the kind of interagency cooperation that you two have demonstrated. I thank both of you for a job well done and for being here today.

Mr. HEMPEL. Thank you very much.

Mr. LANE. Thank you.

Chairman ROTH. At this time it is my pleasure to call the Commissioner of the Internal Revenue Service, Roscoe Egger. He will describe the efforts of the IRS to detect individuals who attempt to receive personal income tax refunds using false or fictitious ID and information. We had the benefit of your testimony on a number of occasions before here We are pleased to have you here with us again. I will have to ask you gentlemen to rise and raise your right hands.

Do you solemnly swear to tell the whole truth, and nothing but the truth, in your evidence before the subcommittee, so help you God?

Commissioner EGGER. I do.

Mr. RANKIN. I do.

TESTIMONY OF ROSCOE L. EGGER, JR., COMMISSIONER OF INTERNAL REVENUE, ACCOMPANIED BY JOHN RANKIN, DEPUTY ASSISTANT COMMISSIONER FOR CRIMINAL INVESTIGATION

Chairman ROTH. Please be seated.

Again, welcome and please proceed.

Commissioner EGGER. Mr. Chairman, I certainly appreciate the opportunity to be here today with you and to share with you some of the things that we are doing to identify individuals who file income tax returns using false identities or social security numbers. Individuals typically file these returns for the purpose of receiving refunds illegally.

My testimony, therefore, is going to focus on a program that we have in Internal Revenue called the questionable refund program. This program was designed to detect false filings and to prevent the issuance of unwarranted refunds as early in the process as possible.

I have with me here at the witness table today, Mr. John Rankin. He is Deputy Assistant Commissioner for Criminal Investigations in Internal Revenue and will be able to assist in answering some questions.

Let me first give you some overview to sort of help put the problems in some perspective. The Internal Revenue Service in fiscal year 1981 received nearly 167 million tax returns and related schedules, of which more than 94 million of them were individual tax returns. We in Internal Revenue have issued nearly 74 million tax refunds, of which 71 million were individual refunds, aggregating $63 billion.

The average refund was about $676 in fiscal year 1981, and in the processing we are doing right now, the 1982 processing year, this figure is up to $738 on an average.

As I trust these figures indicate, the volumes that we are dealing with make the presence of accurate, valid taxpayer identification numbers absolutely essential. It is also important that detection activities not delay legitimate refunds.

The Service uses the social security account number as the taxpayers' account number on our individual master file. These numbers are assigned by the Social Security Administration.

All tax returns and related documents processed by the IRS must have a social security account number to identify the taxpayer. We also use part of the taxpayer's surname as a verification of identity. When transactions in a taxpayer's account are posted to the master file, both identity elements—the social security number and the name control—must match what is already in the master file. If they do not match, the transaction data will automatically be posted to a special section of the master file containing invalid data segments. This, in turn, causes a computer generated "notice" to be sent to the taxpayer for verification of the number or the name control, or perhaps both. If a tax refund was to be received by the taxpayer, it will not be sent out until the taxpayer provides us with corrected data, or has the relevant social security records updated by the SSA.

Additions and corrections to this portion of our master file are received weekly from the Social Security Administration. It is periodically compared to the invalid segment of the master file so that the taxpayer accounts can be updated and corrected and legitimate refunds can then be issued.

Let me turn now to a discussion of our questionable refund program, our primary device for detecting false filings and preventing the issuance of fraudulent refunds.

In late 1976, IRS established an executive-level control group, the Internal Control Committee, to consolidate the Service's existing efforts at improving detection of questionable refund returns and their related schemes. This new approach, called the questionable refund program, made better use of IRS personnel and expanded use of the Service's computers, both at the 10 service centers and the National Computer Center, and facilitated coordination between service centers in the detection and screening of questionable refund returns. It also emphasized national office coordination of the program. The program became operational in January 1977.

For obvious reasons, it would be inappropriate to discuss the details of our program's procedures and criteria. However, in general terms, the program works in the following manner.

Based on previous experience with questionable refund schemes, service center computers are programed to analyze the data in each income tax return and to assign it a weighted score. Selected scored returns are reviewed by a questionable refund detection team prior to the issuance of any refunds. In addition, the characteristics of newly detected schemes are communicated from the discovering service center to the remaining service centers, and placed in their computer programs to facilitate prompt detection of all returns meeting the characteristics of the newly detected scheme.

The computers at the National Computer Center are programed to complement the service center effort by analyzing certain characteristics on a national level, crossing service center boundaries. In addition to identification of returns by computer, the service center personnel who review returns prior to computer processing also refer returns to the team, on the basis of both specified characteristics from servicewide experience and on their individual experience with returns.

The team is the cornerstone of the Service's efforts to detect and stop fraudulent refund returns. Initially, the detection team in each service center analyzes returns referred to it for indications of fraud. The team can than refer cases to appropriate IRS functions for further investigation, and can cancel refunds. Team members recommend adjustments to the criteria for finding fraud as schemes change, and inform processing personnel of new indicators of fraud.

In addition, the team develops information on multiple filer schemes. The detection team forwards details of methods of operation of schemes to the service center director and appropriate regional and national IRS officials. They also notify all other detection teams of identified schemes. Finally, the team reports statistical information to the service center director, and to regional and national coordinators.

The service center detection teams include representatives from all concerned IRS functions, with emphasis on a coordinated, servicewide approach. During peak workload periods, each team will have about 13 members. The chief of the criminal investigation branch at the service center serves as the questionable refund detection team leader, and is complemented by other personnel with extensive experience auditing individual income tax returns and reviewing cases for filing characteristics.

I have attached to my statement a statistical summary of key aspects of QRP since its inception in 1977. A brief review of some sample QRP cases also may be of interest to you.

In our Indianapolis district, an individual was convicted for the second time for his role in filing multiple false returns. He received a 5-year sentence for his role in the scheme. The names used were taken from newspaper files on route carriers employed by the individual's employer.

The Austin Service Center detection team identified a scheme involving 84 false claims. The investigation led to the arrest and conviction of two law enforcement officials, who stated that they got the idea for filing the false claims after watching a report on the television show "Sixty Minutes."

Also in our southwest region, an individual currently awaiting trial on a previous scheme has been identified as having filed in excess of $1 million in false returns during the current year.

Attempts by prison inmates to file fraudulent refund returns received considerable public attention in 1976, when an inmate at the Federal prison in Leavenworth, Kans., was convicted and sentenced to 15 years for such filings. During the trial, the IRS' ability to detect such schemes was called into question by the testimony of the inmates involved, who seemed to have an unusually detailed understanding of the processing procedures then used by the Service. The incident received nationwide media coverage, but occurred before the creation of our program.

Since November 1976, the Service has maintained liaison with the Federal Bureau of Prisons, through our Criminal Investigation Division, in an attempt to avoid any recurrence of such incidents. Certain data received periodically from the Bureau of Prisons and from State and local prison officials is now used in our program at the service centers.

In a recent case from our Nashville district, a prisoner was convicted for the fourth time for filing multiple fraudulent returns. In this most recent attempt, he obtained names and social security numbers from surplus military uniforms while working in the prison laundry. This scheme was detected by alert tax examiners in both the Memphis and Cincinnati Service Centers. In appealing the 7-year sentence meted out, the prisoner's attorney tried to argue that imprisonment would not deter his activities since his latest scheme was perpetrated from within prison confines.

Sample press clippings describing other refund schemes are attached to my statement.

IRS' Inspection Service has programs designed to detect employee involvement in questionable refund schemes as part of its mission to protect the integrity of IRS programs and personnel. While some of these programs existed prior to the development of the questionable refund program—and still exist independent of it—inspection does play a role in the QRP.

During the 1977 filing season, the first year of the QRP, Inspection personnel were made a part of the questionable refund detection teams, and have continued to play an important role ever since. Inspection representatives assist in the development of refund scheme profiles and evaluate indications of IRS employee misconduct or involvement in a refund scheme.

Independent of the QRP, Inspection also performs investigations dealing with refund schemes engineered by employees or former employees, and conducts internal audits of the QRP and team operations. Some recent examples of the employee cases might be of interest to you.

In one case, a revenue officer was identified as having filed 10 false returns using names of individuals he had dealings with in his capacity as an IRS employee. He was arrested, pled guilty to the numerous charges, and received a 3-year jail sentence.

In another case, a clerk in Houston received 3 years' probation for having filed false returns using privileged taxpayer account information. She pled guilty after having been arrested by IRS inspectors. A case similar to this, with an identical outcome, was noted in a recent GAO report—MASAD-82-18, of April 21, 1982—and the Washington Post.

We believe our questionable refund program is a realistic effort which has shown tangible results. But just as we cannot examine every tax return which should be examined, or work every case that has some compliance potential, we cannot assure that every fraudulent refund claim is identified. The sheer volume of returns filed and refunds involved makes that impossible. Our efforts to stop questionable refunds before payment must also take into account of the needs of honest taxpayers to have their refunds processed expeditiously.

Since 1977, our programs have effectively identified hundreds of questionable refund schemes. We believe we have stopped almost all questionable refunds prior to payment, and we have produced numerous criminal investigations and convictions. The results of this program should serve as a substantial deterrent to those who might be tempted to engage in this type of fraud. We will continue to work to refine our methods of identifying questionable refunds while timely processing legitimate refund claims.

Mr. Rankin and I will be pleased to try and answer any questions you or the members may have.

Chairman Roth. Thank you, Mr. Egger.

One of the difficult problems in this whole area of fraud is to what extent information should be made available from one agency to another or from the Federal level to the State. It is a complex problem because you do have the problem of the rights of privacy. I don't think anyone wants to develop a police state where everybody can be followed much like the totalitarian states of the past. At the same time it complicates the situation that various agencies can't make certain basic information known to other Federal agencies let alone State and local governments.

You testified about a number of schemes involving individuals who invent a social security number or use a number of another person. What kind of cooperation do you receive from the Social Security Administration to verify these documents?

Commissioner Egger. We have a very good working relationship with the Social Security Administration in verification of the numbers. And as I said before, the validity of these social security numbers is tested both in our programs and through the Social Security Administration. The schemes where individuals invent a social security number are somewhat easier because we can quickly discover that there is no such number or if we get double filings, that kind of thing.

I think the thing that would help the most here would be for the Social Security Administration itself to have all the help it can get on upgrading its state-of-the-art technology. As with many agencies, they are behind. They, therefore, tend to be somewhat slower, through no fault of their own. It's simply a matter of capability.

Chairman Roth. Let me go back and ask you if you feel the cooperation you secure from the Social Security Administration is based upon a statutory requirement?

Commissioner Egger. Yes; if we didn't get the cooperation voluntarily, we have a statutory right to get the information anyway. But we have not had that problem.

Chairman Roth. Let me turn to the other side of the problem, where you are the one that has the information that other agencies or State and local governments would like to have in determining whether or not a person is eligible for a program. I notice that there is an article in the morning paper where a Federal judge temporarily blocked the Social Security Administration from cutting out welfare benefits to people who refuse to turn over their income tax returns.

Would you care to comment at this time as to whether it would be a desirable policy to make this information available? In this particular case it is estimated by HHS that there may be something like 88,000 recipients of supplemental security income benefits who are not entitled to them. They want tax information from your agency to determine whether or not that was true.

Do you think that this kind of information can be made available on some basis and yet protect the basic rights of privacy?

Commissioner **Egger**. That particular program invited the individuals to sign waivers which, of course, made it possible for us to disclose the information to the Social Security Administration without anything further, because once the taxpayer waives that right to keep us from disclosing, we can go ahead and do it. I think on the broader scale, the administration has studied and has worked with various committees of the Congress to try to come up with a general plan for seeing to it that information that should be made available to various agencies—with particular reference to law enforcement—is available on a reasonable basis, without destroying the confidence that the public has in the integrity of the tax system.

I think that a big concern will always be at what point do you do any damage to the system itself by not reassuring the public that the information that they put on their tax returns is maintained on a confidential basis. In 1976 the situation became sufficiently bad that the Congress proceeded to enact very strict rules in this area. I think we are now sorting out those rules, trying to see just where they may have gone too far, or perhaps where they didn't go far enough in some cases.

Chairman **Roth**. Would you like a statutory right to disclose to SSA?

Commissioner **Egger**. I am a little bit at a loss to try to answer that specific question right now, because it depends so much on what is going to be the general public's perception. I am less concerned about an individual case, where there is an attempted fraud or something of that sort involving another agency of the Federal Government, than I am about the public perception that a blanket authority to disclose tax return information might convey. So that is the one we really have to study in this specific situation.

Chairman **Roth**. One of my concerns is the fact that it appears that corruption, fraud, and abuse is fairly widespread and it is somewhat difficult to argue that if one agency has certain information that disqualifies, a person, that the other should not have that made available. At the same time, particularly in the case of income tax returns, you don't want this to become common information or knowledge. I would urge that you give some thought because I think this is an increasingly serious problem. There is no question but what the cost of the program is tremendous.

Somehow we must find some means of eliminating this corruption, yet within the confines of maintaining confidentiality. Is there any way for your agency to supply the basic information as to whether or not a person qualifies?

Commissioner **Egger**. I think I had better think that one through, Mr. Chairman, before I attempt to answer it. In general, I certainly agree that there is no basis on which you can say that one agency of the Federal Government shouldn't make known to another agency information where there is an indication of fraud, corruption, and so on. But as I said earlier, the problem is almost a psychological one. It is a perception problem. And the confidentiality of tax return information seems so critical to the integrity of the self-assessment system that we are very, very reluctant to do anything until we have reasonable assurance that it won't dampen the level, or downgrade the level of compliance.

I think there are ways to do it. I think there are ways of making the information available where there are and can be reasonable assurances that all the precautions have taken place. In some instances a court order would suffice.

So we are studying, and have studied with the various committees, ways to do this. And certainly we are going to continue to do that in the hope of finding a solution.

Chairman ROTH. I guess my concern, Mr. Egger, is that these hearings are indicating that there is broad corruption and major ballooning of costs of programs that frankly could use more money for those in need. We have got to find some answers that will make the basic information available to those who need to determine qualification and yet not at a total sacrifice of the rights of privacy. I agree with you, in these days of explosion in computer information, we ought to be able to find some answers. But I would urge that you and some of your people give your best thoughts to this because I think we are going to have to have some answers in the near future.

Commissioner EGGER. We certainly will.

Chairman ROTH. Senator Rudman?

Senator RUDMAN. Thank you very much, Mr. Chairman.

Mr. Egger, just following on with the dialog that you have just had with the chairman, between the Tax Reform Act and the Privacy Act for all intents and purposes bureaucrats, Federal Government employees are really at their peril to exchange the very kind of information that we are talking about here. We recognize that. A number of us have tried to do something about that, and successfully did it in the Senate last year but did not get through the House at that time in the conference report as you may recall.

But we are faced with a situation after looking at what we have seen here for 2 days, particularly what we saw yesterday of enormous numbers of extremely sophisticated schemes being accomplished to produce identification that is so good that unless people had mechanical electronic means to verify they could not verify. We have illegal aliens who have legal alien cards, we have people with no right to social security cards who have them, and we have people who have American citizenship documents by virtue of getting very authentic birth certificates. And the whole thing is coming down where we have to I think as the chairman stated, finally balance those constitutional rights which all of us believe in with the practical matter as to who is ripping off the Government.

We have a situation that we will have described here a little later by the attorney general of the State of Illinois where documents were used in a very improper manner. And I want to commend you for what you have done to upgrade the criminal aspects of IRS, your investigative efforts. I think many of the criticisms are criticisms of the past. But unless we confront this whole question of exchange of information with the right kind of safeguards, and I think that initiative has to come in many ways from the administration because you are working with it, I think we are going to have more and more trouble.

You go into the bank to get a mortgage on a home and you are required to give authority for confirmation of certain data that you supply. If you want credit, you have to give people the ability to go and check with your employer, with other banks and so forth. That isn't a loss of privacy I expect. But if you want something, most people won't do it on faith. Yet here at the Federal level because of the system that we have, and historically have had, with our tax systems we have extended that to our benefit and welfare systems so that we have no real way of confirming.

I am convinced after sitting in this subcommittee after a year and a half of various kinds of matters that there aren't hundreds of millions but that there are billions of dollars that go out that is coming right out of the hide of the American taxpayer, not going to the people who need it. So I hope there will be some sort of a package put together by those of you who have to work together here in the Congress as to what we might do to make your job easier and then it is going to be a battle. There are those here in the Congress who would say no information should be exchanged in the name of civilian liberty and I think that is just a rank exaggeration.

I have no questions for you really but a good opportunity to agree with Chairman Roth, who is taking a leadership role in this and he must feel somewhat frustrated because he has been trying it for quite some time, not only trying for a short time. But we have got to do something to bring this information together or else we are going to lose more billions of dollars and more people are going to take this Government for a ride at a time that we just can't afford it.

Commissioner **EGGER**. I would simply add to what you say, that it is very, very difficult for anybody to disagree with that, because it is by and large true. We are wrestling right now with this "tax gap," which is in the $85 to $90 billion range, and it is frightening in terms of the costs to American taxpayers, in the sense that that money somehow has to get made up in some other way.

So if you add all of the other things—fraud, corruption—you are quite right. The amounts become very burdensome to the public.

Senator **RUDMAN**. The average American man or woman goes to work, pays their taxes, both local, State, and Federal. Maybe grudgingly some time, yet we are allowing a whole class of Americans to get benefits that they shouldn't get, not to pay taxes that they should be paying. And in many ways, we have done this because we have, I think, been overzealous; we have gone so far to protect individual rights of privacy that we have gone over the side the other way.

I hope there will be a very vigorous proposal from your agency, from the administration in helping to address this whole problem because it is just getting scandalous.

Chairman **ROTH**. Thank you, Senator Rudman.

I just have a few short questions. We do, of course, have your statistics on actual cases of false refunds. But I wonder, do you have any estimate as to how much is being lost through these kind of claims?

Commissioner **EGGER**. Mr. Chairman, I wish I could tell you how much more we have not found, but the mere fact that we haven't found it is a clear indication that we don't know about it.

I have no way of estimating it. We certainly have improved dramatically our ability to detect these schemes as they come through the service centers as shown by those statistics.

I commented earlier on the necessity for us to maintain a level of sophistication that is at least out in front of the sophistication of the schemes that are being developed each year. This is obvious. That is what we are attempting to do. We have upgraded the leadership levels in Criminal Investigation, and certainly the questionable refund program is one of their principal areas of concern.

We are going to continue to work on that as well as other schemes which are used to defraud the U.S. Government.

Chairman ROTH. That is all the questions I have.

I appreciate your being here. Again, I want to underscore what both Senator Rudman and I have been saying, is that I think this is a critical problem that has to be addressed at the highest level of Government.

There are certain things that can be done here on the Hill. We will certainly make it an area of special interest of this subcommittee but I do think that the executive branch should address this problem and address it quickly because there is no question, as Senator Rudman said, and I agree, that we are not talking about hundreds of millions, we are talking about billions of dollars going to people who have no claim to those funds.

In these days, when we are trying to worry about deficits, balancing the budget, and at the same time be compassionate to those in need, it is critically important that we eliminate from Federal benefit programs those who are not eligible. The problem is staggering. I think some real attention should be given within Treasury and other agencies as to how to address this problem Government-wide.

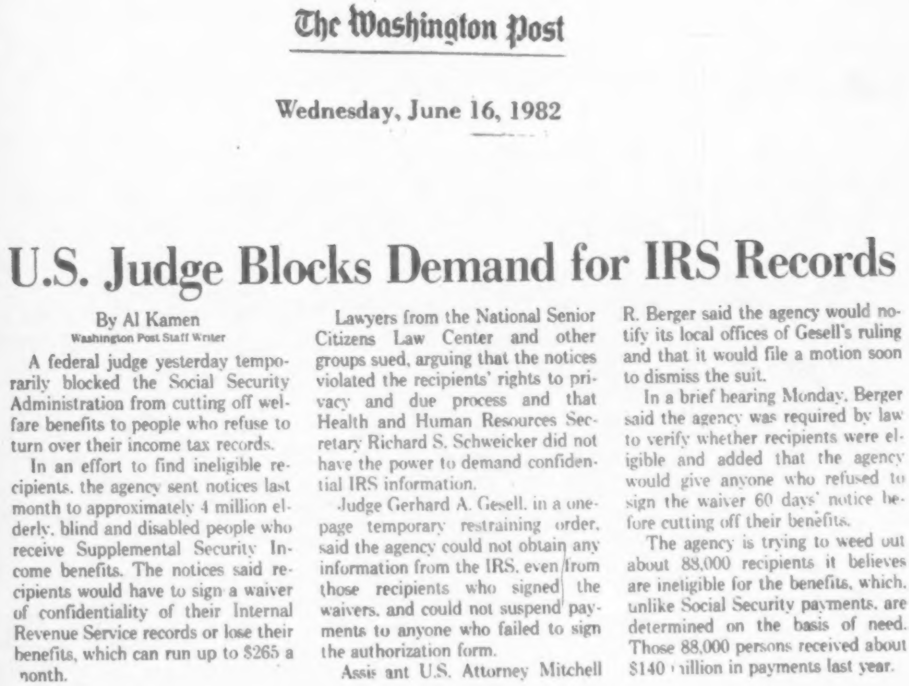
Thank you gentlemen for being with us.

Mr. WEILAND. Mr. Chairman, if I may, I would like to introduce an exhibit for the record, the Washington Post article of this morning that you referred to.

Chairman ROTH. Without objection.

[The document referred to was marked "Exhibit No. 3," for reference and follows:]

EXHIBIT NO. 3



The Washington Post

Wednesday, June 16, 1982

U.S. Judge Blocks Demand for IRS Records

By Al Kamen
Washington Post Staff Writer

A federal judge yesterday temporarily blocked the Social Security Administration from cutting off welfare benefits to people who refuse to turn over their income tax records.

In an effort to find ineligible recipients, the agency sent notices last month to approximately 4 million elderly, blind and disabled people who receive Supplemental Security Income benefits. The notices said recipients would have to sign a waiver of confidentiality of their Internal Revenue Service records or lose their benefits, which can run up to $265 a month.

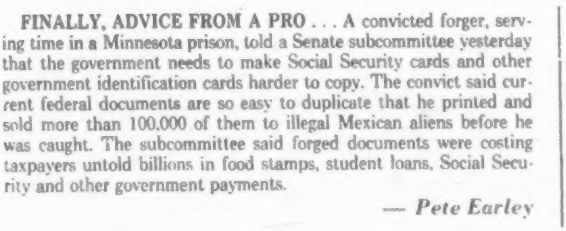
Lawyers from the National Senior Citizens Law Center and other groups sued, arguing that the notices violated the recipients' rights to privacy and due process and that Health and Human Resources Secretary Richard S. Schweicker did not have the power to demand confidential IRS information.

Judge Gerhard A. Gesell, in a one-page temporary restraining order, said the agency could not obtain any information from the IRS, even from those recipients who signed the waivers, and could not suspend payments to anyone who failed to sign the authorization form.

Assistant U.S. Attorney Mitchell R. Berger said the agency would notify its local offices of Gesell's ruling and that it would file a motion soon to dismiss the suit.

In a brief hearing Monday, Berger said the agency was required by law to verify whether recipients were eligible and added that the agency would give anyone who refused to sign the waiver 60 days' notice before cutting off their benefits.

The agency is trying to weed out about 88,000 recipients it believes are ineligible for the benefits, which, unlike Social Security payments, are determined on the basis of need. Those 88,000 persons received about $140 million in payments last year.



FINALLY, ADVICE FROM A PRO . . . A convicted forger, serving time in a Minnesota prison, told a Senate subcommittee yesterday that the government needs to make Social Security cards and other government identification cards harder to copy. The convict said current federal documents are so easy to duplicate that he printed and sold more than 100,000 of them to illegal Mexican aliens before he was caught. The subcommittee said forged documents were costing taxpayers untold billions in food stamps, student loans, Social Security and other government payments.

— *Pete Earley*

Chairman ROTH. At this time, I would like to call forth the panel made up of James B. Thomas, Jr., Inspector General, Department of Education, and Bryan Mitchell, Deputy Inspector General, HHS.

Gentlemen, if you would stand and raise your right hand, do you swear that the testimony you are about to give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. THOMAS. I do.

Mr. MITCHELL. I do.

TESTIMONY OF JAMES B. THOMAS, JR., INSPECTOR GENERAL, DEPARTMENT OF EDUCATION; AND BRYAN MITCHELL, DEPUTY INSPECTOR GENERAL, HHS

Chairman ROTH. Please be seated.

Mr. Mitchell, we will ask that we start with your statement. We will want to hear from both of you first and then we will ask whatever questions we will have.

Please proceed.

Mr. MITCHELL. Thank you, Mr. Chairman.

Chairman ROTH. Your statement will be included in the record as read.[1]

Mr. MITCHELL. I am Bryan Mitchell, Acting Deputy Inspector General, Department of Health and Human Services.

Our Inspector General Kusserow regrets that he cannot be here this morning and wants you to know that we appreciate this opportunity to present our comments on the issue of false identification and on the ever-expanding problems related to their use in our society.

Over the last few years, the Office of Inspector General has gained extensive knowledge and experience in this area.

As you heard from Inspector Dan Lane of OIG staff, we have been quite active with Project Baltimore. The cases he described this morning, represent only a small example of our work and my statement has additional examples in it.

Our investigators and auditors have uncovered a broad spectrum of cases related to fraudulently made and fraudulently obtained identifications, all of which can impact upon the benefits derived from HHS programs.

However, our work to date, represents only a beginning which according to a 1980 GAO report, is costing taxpayers more than $15 billion annually, and I believe the committee staff has updated that number to $24 billion.

The problem of false identification is that one piece of false identification can be greatly amplified into many fraudulently obtained but legitimate items of personal or professional identification.

As such, one person can have more than one identity. And from our perspective, that can be very costly to the Government. For example, Theordore Levchenko, a layman with no medical background, impersonated a psychiatrist at a medical center in the Bronx, N.Y., and received from medicaid approximately $50,000 for submitting approximately 275 claims during the years 1976–79.

Levchenko successfully carried out this impersonation by the following means.

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[1] See p. 206 for the prepared statement of Bryan B. Mitchell.

First, he accumulated background data on Donald Fink, a physician practicing medicine in California. Then he convinced the Queen's County supreme court that he was Donald Fink and legally changed Fink's name to the fictitious name of Donald Burns.

He then requested that Dr. Fink's file at the National Board of Medical Examiners in Philadelphia, Pa., be changed to reflect his new legal name. He also requested and received copies of Fink's test results and educational qualifications from the National Board.

In the name of Donald Burns, he applied for a New York State medical license by using Fink's background and educational qualifications. Once he received his license, he then applied to New York City medicaid to participate in the medicaid program as Dr. Donald Burns. (Note: Levchenko also applied for and received a social security card under the name Donald Burns.)

The above scheme was only uncovered when Levchenko was arrested by agents of the U.S. Postal Inspection Service and the FBI for submitting false applications for credit cards. This arrest took place in 1978. After being freed on bail, Levchenko became a fugitive from justice and is still a fugitive.

Morton Canton, allegedly a Canadian pharmacist, impersonated Dr. Michele Labella, an Italian physician, who lives and practices medicine in Naples, Italy. Under this false identity, Canton received approximately $153,000 in medicare payments for medical services rendered during 1979–80 in the Miami, Fla., area.

Canton was able to accomplish this scheme by apparently possessing legitimate identification of Dr. Michele Labella and using this identification to take the Florida medical exam for foreign physicians. Canton passed this exam, received a license to practice medicine in Florida, and subsequently became a medicare provider.

This scheme was uncovered when Canton was arrested on a fugitive warrant for narcotics violations. Canton has been extradited back to Canada to face these charges.

In addition, on October 2, 1981, the U.S. attorney in Miami filed a civil suit against Canton in the amount of $332,499.44 for filing false claims to medicare. This matter is still pending.

In May 1980, the Office of Inspector General began an investigation into a misappropriation of approximately $3,000 by Ford McGean, the former executive director of the Tulare Kings, professional standards review organization—PSRO.

McGean was charged with falsely billing the PSRO on six separate occasions for such things as moving a piano he didn't have and for attending conferences in Hawaii and San Francisco that never took place.

During the course of this investigation, it was determined that McGean was actually Ford Kennison Winnek and that he had a history of falsifying documents.

Included in Winnek's past was the apparent falsification of documentation submitted to the U.S. Navy at the time of Winnek's discharge by a Dr. Kelly J. McGean, a psychiatrist.

This document was submitted in support of Winnek's claim of total disability and apparently was the basis under which he received 10 years of disability checks.

On January 19, 1981, Winnek pled guilty to embezzlement and on April 20, 1981, he was sentenced to 3 years incarceration.

Today, there are only four or five truly generic-type documents needed to establish one's identity, a birth certificate, a passport or various Immigration and Naturalization documents, a driver's license, and a social security card.

Once a person gets access to a social security number, depending on other factors such as age, martial status, he or she can then qualify for our Federal, State, and local assistance programs, such programs as: social security; social security supplemental income; medicaid, medicare; food stamps; aid to families with dependent children; student loans; unemployment compensation; and black lung.

All require a social security number.

I would like to discuss, first, some of the problems we have identified that lead to major misuse of Federal identity documents and, second, the projects we are initiating to identify and correct SSN abuses in HHS benefit programs.

As you have seen from our slides, social security numbers are fraudulently obtained through several means: (1) Use of false documents and/or false statements with either a real or fictitious identity; (2) use of another person's number or name which has been borrowed or stolen to request a duplicate; (3) obtaining a valid number or stock card, using a real or fictitious identity or through the bribery of an SSA employee; (4) counterfeiting social security cards.

OIG has devoted extensive time, energy and effort toward combating the problems of false identification misuse, including problems associated with the SSN system. At present, we are actively investigating 129 cases involving the methods previously described. Most of these schemes succeeded in the past because of certain weaknesses in the SSN system, which I will describe later.

We have implemented three initiatives to provide recommendations for correcting problems and to weed out individuals causing the problems. Project Baltimore, which was discussed earlier, represents one such initiative.

Another major undertaking was a review of the SSN issuance system. We examined the management practices and internal controls in SSA's field offices, the validity of SSN application data, the vulnerabilities and deterrent/detection capabilities of their computer system and the trends in issuance of SSN's to aliens not authorized to work.

The review was conducted between January and September 1980 using two target cities with high alien populations, New York City and Washington, D.C.

SSA is authorized to issue numbers to aliens: (1) For work purposes to legal aliens authorized by INS; and (2) For tax and identification purposes, by legal aliens, not authorized to work.

Our findings showed:

1. Out of all work-related SSN's issued to aliens, 20 percent were issued erroneously, either to illegal aliens or to visiting aliens not authorized to work. Testing 1977 data showed aliens used at least 24 percent of the nonwork numbers for work purposes.

2. SSA had no national fraud awareness or effective central office guidance on how to control fraud and misuse. However, local offices were setting up ad hoc procedures to deal with SSN fraud and abuse problems.

3. SSA's evidence certification process lacked controls, supervision, and document training resulting in erroneous issuance of SSN's.

4. Because of lack of case control and effective reconciliation, field office involvement was totally by-passed and fraudulent numbers were issued with no systematic method of detection.

5. Controls over printing, distribution, and storage of blank SSN's were found to be ineffective.

6. SSA had not provided clear instructions for issuing SSN's to aliens who do not have work authorizations nor instituted any deterrents to the abuse of these numbers.

As you know SSA has released its 5-year plan to update its entire computer system, a step which will impact significantly on this problem.

In addition, under SSA's recently issued SSN enumeration improvement plan, many of these findings will be addressed in the short term.

For example, Commissioner Svahn has recently initiated a computerized direct issuance system (DODI) for social security cards. This will eliminate the storage and physical distribution of cards from the district offices and will significantly eliminate problems associated with theft of blank social security cards, second, social security now differentiates all legal alien social security cards issued for nonwork purposes.

This measure together with a data exchange with INS—to begin in August 1982—will do much to identify unauthorized work use of SSN's. Finally, Social Security has improved the evidentiary requirements for cards. SSA clarified its instructions to district office workers and began an intensified training program to detect fraudulent identification.

Our third major initiative in the area of reducing the misuse of Federal identity documents can be summed up under the title of advanced computer techniques. Under our new work plan, the primary OIG focus will be on medicaid, medicare and SSA title II programs because of the extensive amount of Federal dollars expended and because of the complexity of the problems.

As such, even though we will continue to seek out individuals who are defrauding and/or abusing HHS programs, our new approach will be more proactive rather than reactive. This will include initiatives in four basic sections: (1) Fraud and abuse initiatives; (2) internal controls associated with computer systems design, development and operations; (3) review of fiscal controls: and (4) program management and operations reviews.

On both a Government-wide as well as Department-wide basis, our proactive fraud and abuse initiatives will depend mainly on new computer applications to develop and scan program records and transactions at the point of probable detection of fraud or abuse.

At the Government-wide level, OIG is participating in various interdepartmental projects through the President's Council on Integrity and Efficiency (PCIE).

For example, we recently completed a monograph on SSN fraud which is now being circulated to other departments through the PCIE and Office of Management and Budget.

We have also trained staff at the Currency Investigations Branch, U.S. Customs Service, which will assist them to detect fraudulent financial transactions reported under bogus SSN's. Within the Department, OIG has been highly successful in performing matches which identify deceased beneficiaries or persons fraudulently assuming the identity of deceased beneficiaries, still receiving benefits.

In the coming year, these match projects will include further reviews of the SSA master file and the black lung retirement, survivors, and disability insurance file. Vulnerability assessments and oversight of investigative procedures will also be part of our fraud and abuse initiatives.

Our specific computer system reviews and our review of fiscal controls will put major emphasis on reviewing the internal controls in the health care financing and SSA payment systems and in accounting processes involving large amounts of money. This will include a review or audit of computer security systems; their case control systems and systems operations.

We have underway, two computer projects which are aimed at addressing the specific concerns of this subcommittee. One computer project is designed to detect persons or institutions who use fictitious information—such as aliases, differing addresses, and other schemes to avoid detection—so that they will receive more Government benefits than they are entitled to receive.

A second project will show SSN's that are being used but that have not been officially issued by SSA. The computer program will identify and print out any computer record with an SSN that has not been issued by SSA during specific time periods.

Other projects which incorporate various advanced computer techniques are on the drawing board both here and in other governmental agencies. For example, in conjunction with the Internal Revenue Service [INS], we are developing a computer match program which will detect fraudulent tax refund schemes. In time, we expect to make significant progress in reducing the abuse and fraud associated with the Department's other benefit programs.

In conclusion, let me state that we see our new initiatives concentrating on continued investigative refinements, inter-agency assistance and active monitoring of the implementation of improvements to which SSA is now strongly committed.

We feel that the work we have done, on the SSN system, and will be undertaking in the future, will greatly strengthen systems, thereby reducing the amount of fraud, waste and abuse associated with these programs.

Only through systemic modifications and systems updating, can the level of abuse and mismanagement be kept low. And only when this happens will we begin to see changes, positive changes, in our benefit payments to beneficiaries.

This concludes my testimony.

Chairman Roth. Thank you.

Mr. Thomas?

Mr. Thomas. Mr. Chairman, I am pleased to have this opportunity to appear before you today to discuss the problem of false identities and false claims of U.S. citizenship used to receive student financial aid and the role of the Office of Inspector General in investigating those incidents.[1]

As you know, the Department of Education administers various student financial aid programs in which Federal funds flow to the student.

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[1] See p. 216 for the prepared statement of James B. Thomas, Jr.

The Pell grant program is included in this group. The Department also administers the guaranteed student loan program in which funds from the private sector are loaned to students on a federally insured basis. While thousands of schools participate in these programs, each of these programs has a common factor, that there is no face-to-face contact between the student and the Department.

[At this point, Senator Rudman withdrew from the hearing room.]

Mr. THOMAS. In these student aid programs, the appropriate applications for loans or grants are mailed to large processing centers where determinations as to loan insurability or grant eligibility are made.

These determinations are based upon the personal financial data presented on the form. Due to the long-distance relationship between the Department of Education and its student recipients, the Department relies on the schools to be alert to the possibilities of fraud on the part of students.

As a result of the way the student financial assistance programs are administered, most of our recipient cases involve the creation of fraudulent identity and/or eligibility rather than creating false identification documents.

Until recently, most of our investigations which involved the use of fictitious names and/or social security numbers involved U.S. citizens who obtain multiple fraudulent guranteed student loans.

As I am certain the members of this subcommittee are aware, the social security number has become a universal identifier used by nearly all Federal, State and local agencies in the administration of individual benefit programs. Thus, if a person attempts to defraud a Department student aid program by using various names and/or social security numbers, that person may also use the same names and/or social security numbers to defraud other governmental programs.

Some examples of the use of fictitious identities to obtain student financial aid are as follows:

A woman stole the handbags of other women and used their personal checks and credit cards to illegally obtain goods. In six instances she used these identities and fictitious social security numbers to obtain a total of approximately $15,000 in guaranteed student loans. She was convicted in Massachusetts during December 1981.

In the New York City area, 15 family members obtained over $250,000 in fraudulent guranteed student loans. Eight members of the family, including the mother, have been convicted in one State, and two have been convicted in two States. They are currently under investigation in a third State.

An individual pled guilty in the eastern district of New York during December 1981, to charges of bank fraud. He had received 39 guaranteed student loans totaling about $70,000. At least 23 false names and social security numbers were used.

During June 1981, an individual pled guilty in the southern district of New York to charges of bank fraud, conspiracy and false statements. He had submitted approximately 60 false guaranteed student loan applications totaling about $140,000.

The New York State Higher Education Services Corp. has estimated the loss at approximately $135,000. False names, social security numbers and personal information were used on the applications.

In April 1981, a Massachusetts man was convicted of using fictitious names and social security numbers on guaranteed student loan applications. He obtained at least $25,000 from the use of 11 names and 14 social security numbers.

Both guaranteed student loans and Pell grants are restricted by law to U.S. citizens and certain eligible aliens. Applications for both programs require an affirmative statement by the applicant of citizenship or eligible resident alien status. False statements on these applications in regard to citizenship are a violation of Federal law.

Investigators in our Boston office recently participated with agents of the Immigration and Naturalization Service and Postal Inspection Service in an effort aimed at identifying foreign students who were illegally receiving student benefits by falsifying eligibility status.

This investigation, known as Project Rhode Island, resulted in the indictment of 27 individuals who fraudulently received about $93,000 in educational benefits. The indictments led to 22 convictions and 1 dismissal. The four remaining defendants are fugitives.

As our awareness of the problem of alien students illegally obtaining benefits grew, the Office of the Inspector General in the past 6 months has sought to develop new and effective strategies to combat the problem. We recognized the need for a coordinated effort and have initiated a project with other Federal law enforcement agencies.

In the winter of 1981, we had discussions with prosecutors in the Criminal Division of the Justice Department concerning the establishment of a nationwide project to investigate and prosecute cases against aliens who illegally obtain student financial aid.

As a result of these meetings, a nationwide project was initiated in concert with the Criminal Division, Immigration and Naturalization Service, and Postal Inspection Service. The FBI also participates in this project on a selective basis. At this time we are actively investigating these matters in all regions of the country.

Some examples of alien student cases are as follows:

In March, 1982, Immigration and Naturalization Service and FBI agents arrested seven ineligible aliens in New York City for fraudulently obtaining student aid. At the time of the arrests, they discovered four other aliens who had also illegally obtained student loans.

In April, 1982, an ineligible alien was convicted in Connecticut of making false statements when applying for student aid. During the course of the investigation it was discovered that besides $2,500 in student aid, she also received $23,000 in aid for families with dependent children benefits. This individual used an alias and four different social security numbers.

An individual in Denver was arrested by Immigration and Naturalization Service agents and deported as an illegal alien. After being deported, the alien was indicted on three counts of mail fraud for falsely claiming to be a U.S. citizen on student financial assistance applications and illegally obtaining approximately $12,000 in aid.

The unusual step of indictment after deportation was due to the fact that the individual had already illegally reentered the United States after being previously deported. He is currently listed as a fugitive.

I might add that subsequent to the preparation of this statement in conjunction with the INS in New York City last Thursday, we issued 14 additional warrants on individuals and 5 were arrested on that day. The others are remaining fugitives at this time.

We recognized the problems with false identities and/or eligibility in student financial aid programs. We will continue our efforts to attack these problems on a case-by-case basis and with new strategies and methods when we can.

Mr. Chairman, this completes my statement. I would be happy to answer any questions you may have.

Chairman ROTH. As I listened to much of the testimony, it becomes increasingly clear that the social security card number is a key element.

I wonder if it is just by accident that it has become the principal means of identification for various programs.

Do you think that is part of the problem, that rather than trying to develop some kind of identification card for all kinds of programs, that we have just by happenstance used the social security card which we know can be forged rather easily?

Mr. MITCHELL. I consider that to be a good part of the problem. Yes, sir.

Chairman ROTH. Would we be wise to try to substitute a different identification card for all programs rather than depend on the social security card? Or would that be unwise?

Mr. MITCHELL. That is a very tricky area, as you know, Mr. Chairman, but I guess I can only answer by saying that the social security card and the social security number were never intended to be a universal identifier and the safeguards that are in place around the issuance of those numbers and those cards were certainly not the safeguards that you would want in place around a national identity system, one that would provide a much more reasonable assurance to program operators that they were dealing with someone whose identity they could believe, based on that number on the card.

Chairman ROTH. I guess that is what I was trying to say. It seems to me that the social security card and number have become the key instrumentalities because of their ready availability, not because they were designed to serve this purpose. That may be the core of the problem.

You say in your testimony, I believe, that there is really only four or five critical documents to establish identity, the birth certificate, passport, the Immigration and Naturalization documents, driver's license, social security card.

So I guess in a way they are the nub of the problem.

Mr. MITCHELL. They are a large part of the problem, sir.

Chairman ROTH. We have heard a number of witnesses describe joint projects between the Inspector General, the Social Security Administration, and the INS.

Do you believe that SSA is committed to working with you and the INS to remove illegal nonauthorized aliens from the social security system?

Mr. MITCHELL. I believe that—in fact, I know the Commissioner is very much committed to this, Mr. Chairman, but on the other hand, SSA is a very large organization with very outmoded systems.

I think it is going to be some time before we can get the kind of what, I believe, will be the systematic processes that are needed to really weed out this problem.

Chairman ROTH. Do you believe that SSA is sufficiently cooperating with INS to insure that aliens using false INS documents are precluded from getting social security cards and benefits?

Mr. Mitchell. I am really not in the position to answer that question, Mr. Chairman. INS would have to answer that question. Based on my understanding, our people have played a very large role in being the go-between for the two agencies and I believe that things are much better today than they were in the past.

Chairman Roth. Let me ask you: Both of you are members of the Inspector General community. Is this the kind of a problem that might be worthwhile for the Inspectors General of the Departments to get together and try to help formulate some kind of an answer?

Mr. Mitchell. From our perspective, I would say yes.

Mr. Thomas. I think that there are some moves afoot in that area, in relating one agency to the other, in matching processes and identifying problems by using data available in those agencies not in your own agency.

I think one of the issues is data availability. You mentioned to the Commissioner of IRS previously that some data in the federal system is not available to the Inspector General.

Mr. Weiland. Mr. Thomas, I just have a few questions.

Regarding the susceptibility of the Federal student loan program to fraud, what sort of identification is required of applicants for that program?

Mr. Thomas. There is no identification document per se, Mr. Weiland. There is an application form. And on that form, the individual attests to certain elements, one of which is being a citizen or an eligible alien.

Mr. Weiland. Are you getting the kind of cooperation you need from the colleges themselves? I would ask particularly about colleges with significant foreign student populations.

Mr. Thomas. In the investigative efforts that we have had thus far, we have not had any trouble with cooperation from the institutions. We have not.

Mr. Weiland. Our own staff inquiries indicate that at least with respect to some of the field people we have talked to that this may not be the case.

I would suggest that perhaps your staff and my staff get together after this hearing because we have some reservations about that.

Mr. Thomas. Fine. We would be happy to do that.

Mr. Weiland. What about your Project Rhode Island?

Do you have any plans to expand that?

Mr. Thomas. Yes, sir. I indicated that we do have projects of this sort going on now in each of the regions around the country and, as a result of the meetings we had in the fall with the Department of Justice, they have written a memo to all the assistant U.S. attorneys in selected areas asking their cooperation with us, INS and the Postal Inspection Service.

We do in fact have a number of such projects on going now.

Mr. Weiland. Does main Justice have a presence in that or are they relying on assistant U.S. attorneys?

Mr. Thomas. They are relying on assistant U.S. attorneys at the site, but they also have a presence. We do have communication with them. They have two people listed in the memorandum that went from main Justice to the assistant U.S. attorneys that act as contact for U.S. attorneys as well as for the investigative agencies.

Mr. Weiland. Thank you, Mr. Chairman.

Chairman Roth. Gentlemen, I believe that is all the questions I have. I appreciate your being here today.

Again, I don't know whether the Inspectors General generally get together occasionally or not, but this is a common problem and there ought to be a rather common solution to it.

So I would hope that their group would give some attention to this. If it does, I would be very much interested in what your recommendations may be.

Thank you, very much.

Mr. Mitchell. Thank you, Mr. Chairman.

Mr. Thomas. Thank you, Mr. Chairman.

Chairman Roth. Our next witness will be the attorney general of Illinois, who is not expected until 11:30.

So the subcommittee will be in recess until such time he is here.

[Brief recess.]

[Member present at time of recess: Senator Roth.]

[Member present after recess: Senator Roth.]

Chairman Roth. The subcommittee will be in order.

At this time we are very pleased to have with us the attorney general for the State of Illinois, Tyrone Fahner and I know that Senator Percy was particularly sorry that he couldn't be here today. As you know he is chairman of the Foreign Relations Committee. He is out of the country today. But he has asked that the statement of introduction that he had prepared be read so at this time I will ask Mr. Weiland to read that statement.

Mr. Weiland. Mr. Chairman, Senator Percy's statement reads as follows:

> I deeply regret that I was unable this morning to introduce Ty Fahner. However, President Reagan asked that I attend the memorial service for King Khalid.
>
> First, Mr. Chairman, I would like to commend you for conducting these hearings. The impressive hearing record that your staff has developed will provide members of Congress with a valuable tool in combating this runaway problem. When you so graphically pitched those fraudulent immigration cards yesterday into a container, you may have just as well have been taking taxpayer dollars and throwing them out the window. The effect is exactly the same. You have my total support in developing effective measures to deal with this problem.
>
> Second, I would like to thank Ty Fahner for coming to Washington to testify. I understand that he is on a very tight schedule and traveled to Washington in response to our request. Ty represents the kind of effective Attorney General that any state needs. He responded swiftly to the first accounts of this massive use of phony ID's to secure unemployment compensation benefits. I support his efforts to make the use of fraudulent ID's to obtain government benefits a felony in Illinois, instead of just a misdemeanor.
>
> Third, I would like to congratulate Russ Ewing of WLS-TV in Chicago for first exposing the widespread use of fraudulent documents in Chicago to obtain government benefits. I understand his effort led directly to the investigation by Ty Fahner. I salute Russ for this fine example of investigative journalism. Thank you.

Chairman Roth. Mr. Fahner, under our rules all witnesses are sworn. So if you would please rise. Do you solemnly swear that the testimony you will give to this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Fahner. I do.

Chairman Roth. Thank you, please be seated.

TESTIMONY OF HON. TYRONE FAHNER, ATTORNEY GENERAL OF THE STATE OF ILLINOIS

Chairman ROTH. Again we are delighted to have you here today. Please proceed.

Mr. FAHNER. Thank you, Mr. Chairman.

Mr. Chairman, thank you for permitting me to testify today on a topic that has unfortunately gained prominence in Illinois and one that is literally strangling State budgets across our Nation.

Before I begin, allow me to acquaint you with my background so that you know my perspective on this issue. Prior to becoming attorney general, I was director of the Illinois Department of Law Enforcement for 2 years and an assistant U.S. attorney for the northern district of Illinois for 4 years, as a young Federal prosecutor in 1971.

All of us in government feel the pressures of providing social benefit programs to the truly needy. This has become increasingly difficult in days of tight budgets and budget cutbacks. Dollars for these programs are hard to come by. And as you well know, we are trying to stretch every penny as far as it will go.

In times like these, fraud in the benefit system becomes more than waste: More than simply another government rathole. Fraud in benefit programs can mean the difference between delivering services to the poor, the sick, the elderly, and the jobless or leaving them with no hope.

We can conservatively document tens of millions of dollars in benefit program fraud directly related to the use of illegal government identification. That's tens of millions of dollars that we could use in Illinois alone to help the truly needy and save taxpayers' money.

About 4 months ago members of my staff and the regional office of the U.S. Immigration and Naturalization Service began discussing the fraud that the INS agents believed was occurring in the Illinois Bureau of Unemployment insurance program. Our action was triggered by an excellent series of reports done by the ABC station in Chicago, Mr. Russ Ewing, in particular, on the illegal use of counterfeit social security cards by illegal aliens.

My office and the INS decided to begin a simple but as yet untried pilot project. Whenever an alien applicant appeared at the Illinois Department of Labor office seeking unemployment benefits the department personnel were instructed to telephone the INS regional office and run a cross check of the individual's alien status and the corresponding numbers of the green card, his registration number, his birth date, with the name that he was presenting to the office.

Surprisingly, this system was not routine practice prior to our pilot project and to my knowledge it is not now the policy in most States.

The results of our study quite frankly shocked everyone concerned. In the first week of our project which was the last week of March 24 to April 1, we surveyed alien applicants at one south side office in Chicago. Of the 198 alien applicants who applied for unemployment benefits that week, 101 of those persons were illegal aliens who attempted to use phony green cards. That is 51 percent fraud in a single office that would have gone undetected without the crosschecks. Because the counterfeit cards are reasonably well done there would have been no system available to verify the applicants.

Presumably this has been the case for some period of time, in Illinois at least.

Based on figures which show the average weekly benefit payment to an unemployed person at $137.95 for an average period of 16 weeks, we estimate that by rejecting those 101 illegal alien applicants in that single week the State of Illinois saved $222,000.

We expanded our pilot project with that information to a statewide sampling of all 51 unemployment insurance offices in Illinois for 1 day—April 1. On that day we found that of 257 alien applicants statewide, 119 attempted to use phony green cards. Once again that is nearly 46 percent. By rejecting those applicants which I again emphasize would not have been done without our project, Illinois saved $262,000 in just 1 single day of applicants.

Thus far I have told you what Illinois saved from those experiments. Let me give you some idea of what any State stands to lose if this problem isn't corrected.

We estimate from our pilot project—just a single program—that Illinois annually has lost about $66.2 million through the fraudulent receipt of unemployment benefit payments obtained through the use of phony documents.

[At this point, Senator Nunn entered the hearing room.]

Mr. **Fahner.** As I said before, this is just one of many programs we know of or believe to be the case where counterfeit documents are being used to beat the system. More currently I have begun a probe into the receipt of government-funded student grants by illegal aliens that is draining the precious pool of money we have available to help those seeking an education. We hope to have the results of that project, result in indictments in the not too distant future.

There is some good news in all of this. When the publicity about our project hit the street, both in the media, and among the grapevine, the people who produce, sell, and use these counterfeit ID cards started to taking a very low profile. Our project which is continuing showed that throughout the month of April the aliens attempting to use fraudulent green cards to obtain jobless benefits dropped in a very, very direct line, 46 percent statewide to less than 8 percent in the last 2 months.

Obviously the word has gotten out. Obviously as well there is still a tremendous amount of work to be done in this area.

Although State employees could reject illegal alien applicants using these phony cards in Illinois at least, there is no current law that will allow them to seize the document so the individual simply would either give the document back and walk away, if the person had the presence of mind, or simply leave the document and walk out of the office when the questions were asked as part of the followup.

We know it would be impossible given the high number of illegal aliens in this country to arrest every person on a daily basis. In fact going back for a moment to my experience as an assistant U.S. attorney in the early seventies, we would only prosecute as opposed to simply return the people to the place of their proper residence after they had broken our laws on three, four, or five occasions.

I can't tell you if that has changed as of today.

In addition, because of State laws which protect the confidentiality of certain applicant information, law enforcement agencies including my own are not allowed access to vital information which is needed for any thorough investigation of persons who attempt to steal government benefits.

And many State laws regarding benefit fraud have limited penalties that few prosecutors choose to enforce.

In the present session of the Illinois General Assembly I have introduced legislation which I am providing you today as part of our testimony and essentially the proposal does three important things.

First, it creates a new crime in Illinois of State benefit fraud and it raises the penalty for obtaining or attempting to obtain State benefits through the use of an illegal document from its misdemeanor status to a felony. In my judgment only in this way will the punishment fit the crime that we are presently dealing with.

Second, it allows us access to records submitted to an agency or Department of State to establish or determine eligibility for money or benefits. In my judgment confidentiality was never intended to assist people in defrauding the government. It was intended to protect individual's rights but not aid illegal aliens and criminals by letting them use society's laws against society to cheat and to steal from us.

Third, it gives the State the authority to seize as evidence any false or fraudulent document presented in connection with an application or receipt of benefits.

This third provision is another thing that astounded me that by the law in Illinois presently we were without authority to hold identification cards which we believe to be false or fraudulent until such a time as we could prove it, that the law that I suggested will make the changes.

This type of legislation I urge all States to consider passing. It has been well received by our lawmakers thus far and I intend to make it a point of business at the National Association of Attorneys General at the annual meeting this July.

[The document referred to was marked "Exhibit No. 4," for reference, and follows:]

EXHIBIT NO. 4

82nd GENERAL ASSEMBLY
State of Illinois

1981 and 1982

INTRODUCED JULY 1, 1981, BY HALLOCK

SYNOPSIS: (Ch. 124, par. 34)

Amends the Identification Card Act. Provides that the duplication, manufacture or sale of an ID card which resembles an official Illinois ID card and does not prominently on its face declare its unofficial status is a Class B misdemeanor.

LRB8205123JMcb

A BILL FOR

HB1925 Engrossed LRB8205123JMcb

AN ACT to amend Section 14 of "The Illinois Identification Card Act", approved December 18, 1975, as amended.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Section 14 of "The Illinois Identification Card Act", approved December 18, 1975, as amended, is amended to read as follows:

(Ch. 124, par. 34)

Sec. 14. Unlawful Acts. It shall be unlawful for any person, under this Act, as amended, to:

a. submit any application or document to the Secretary of State which has been unlawfully altered, or which contains a forgery, or which is counterfeit, or which is fictitious or a deception;

b. commit perjury, forgery, or any deceptive practice, or to counterfeit any document; or

c. possess or sell any blank Illinois Identification cards; or

d. It shall be a Class B misdemeanor for any person to duplicate, manufacture or sell any Illinois Identification Card or any identification card which purports to be an official Illinois Identification Card issued under this Act. For the purpose of this subparagraph, any identification card which resembles an official Illinois Identification Card in size, color and design is deemed to be an identification card which purports to be an official Illinois Identification Card issued under this Act unless the words "This is not an official Illinois Identification Card", or words with a similar meaning, appear prominently upon its face; or

e. fail or refuse to surrender upon demand, to the Secretary of State or his agent, any identification card which has been cancelled or revoked, or which is fictitious or fraudulently altered, or which contains a forgery, or which is counterfeit; or

f. lend or sell his card to another person; or

g. knowingly permit any person to use his card; or

h. display or cause to be displayed, or to have in his possession, any identification card which has been cancelled or revoked, or which is fictitious, or fraudulently altered, or which contains a forgery, or which is counterfeit; or which purports to be an official Illinois Identification Card issued under this Act; or

i. display or represent as his own a card not issued to him; or

j. commit any deceptive practice with any Illinois Identification Card with intent to defraud.

AMENDMENT TO HOUSE BILL 1925

AMENDMENT NO. 1. Amend House Bill 1925 on page 1, by deleting lines 1, 2 and 3, and inserting in lieu thereof the following:

"AN ACT to amend certain Acts in relation to false identification and fraud."; and

by inserting after line 5 the following:

"Section 1. Section 17-6 is added to the "Criminal Code of 1961", approved July 28, 1961, as amended, the added Section to read as follows:

(Ch. 38, new par. 17-6)

Sec. 17-6. State Benefits Fraud. (a) Any person who obtains or attempts to obtain money or benefits from the State of Illinois, from any political subdivision thereof, or from any program funded or administered in whole or in part by the State of Illinois or any political subdivision thereof through the knowing use of false identification documents or through the knowing misrepresentation of any material fact is guilty of State benefits fraud.

(b) Notwithstanding any provision of State law to the contrary, every application or other document submitted to an agency or department of the State of Illinois or any political subdivision thereof to establish or determine eligibility for money or benefits from the State of Illinois or from any political subdivision thereof, or from any program funded or administered in whole or in part by the State of Illinois or any political subdivision thereof, shall be made available upon request to any law enforcement agency for use in the investigation or prosecution of State benefits fraud or for use in the investigation or prosecution of any other crime arising out of the same transaction or occurrence. Except as otherwise permitted by law, information disclosed pursuant to this subsection shall be used and disclosed only for the purposes provided herein. The provisions of this Section shall be operative only to the extent that they do not conflict with any federal law or regulation governing federal grants to this State.

(c) Any employee of the State of Illinois or any agency or political subdivision thereof may seize as evidence any false or fraudulent document presented to him in connection with an application for or receipt of money or benefits from the State of Illinois, from any political subdivision thereof, or from any program funded or administered in whole or in part by the State of Illinois or any political subdivision thereof.

(d) State benefits fraud is a Class 4 felony except when more than $300 is obtained, in which case State benefits fraud is a Class 3 felony."; and

also on page 1, in line 6, by changing "Section 1." to "Section 2.".

Mr. **Fahner.** There are certain other measures which I urge this subcommittee to consider in the spirit of a working partnership between the States and the Federal Government to help solve this problem.

First there is the growing need for greater designated cooperation between the U.S. Immigration Service and State agencies charged with the responsibility of administering benefit programs.

[At this point, Senator Nunn withdrew from the hearing room.]

Mr. **Fahner.** In my office in Illinois I have appointed a liaison officer to coordinate such projects between levels of government. But I must add today that the Chicago office of the INS has been extraordinary in its assistance to my office particularly in the presence of a man named Ted Georgetti, Assistant Regional Director for the INS, who had been in the Service for 28 years and he helped structure the program that I have been telling you about.

I also believe we must look for ways to make more computer time available from the Federal Government so we can cross-check our programs such as the ones that I have described in helping us route fraud in the State and Federal programs. I suggest this subcommittee also investigate the feasibility, if you don't already intend to do so, of making identification cards more counterfeitproof. Right now the cards such as green cards and social security cards are very easy to duplicate and alter. I know the subcommittee took extensive testimony on that previously. In Chicago at least the false ID we know sells on the street for anywhere from $50 to $1,500 per piece for identification. Perhaps using the coded magnetic tape cards or other similar methods, but whatever the proper method to make these cards counterfeitproof, I think that will be an essential part of solving the problem.

I also recommend most respectfully that you communicate to the Department of Justice the urgency of making prosecutions of green card violators particulary those who make and sell the cards a priority in the coming months. As a former Federal prosecutor I can tell you these cases are often near the bottom of U.S. attorney's prosecution lists in priority, although the penalties for conviction are 5 years in prison and $5,000 in fines.

States must participate also by strengthening their laws concerning benefit fraud. These crimes should be felonies under State law. When money is drained in the States, because tough prosecutions don't exist, then the problem will eventually eat up Federal dollars as well.

Finally, I encourage the Federal Government and the States to review the availability of benefit applicant information for the use of law enforcement agencies. It is virtually impossible to adequately combat this type of fraud without the availability of information such as place of employment, place of residence, date of birth, and other such information which is presently not available to my office, to the Illinois Department of Law Enforcement or to any of the internal agencies or, excuse me, the internal police agencies of the bureau of employment security, the department of public aid and so forth.

In the course of the benefit fraud investigation obviously this information should be shared by and among law enforcement agencies. I would like to thank you, Mr. Chairman, for your patience in listening to my testimony and if I may I would like to leave you with one final thought. In doing the things we have been doing in Illinois, in Chicago in particular, there has been some controversy perhaps that we were doing things that were harmful to various ethnic groups, the sorts of problems I am talking about cross all ethnic groups and people from a number of countries in the Chicago area. So I think it is significant to comment that although from most of our history this Nation has been very generous in helping others who cannot help themselves.

Through our values and our conscience as a nation we have done what we can to provide for those less fortunate. But in our haste, in our delivery system, internally, externally to help people come in whether Haitians, Poles, or people from Mexico, in our haste to get benefits, be it in the form of food stamps to our own needy or to these other people, we have never really put in a proper safeguard to make sure that only the truly needy and those legally entitled would receive the benefits. I have seen that going back since 1971 in my experience.

Obviously because of the times we are going through, this problem is all the more acute. I fear that if you do not soon get a tight grip on this problem and deal with it firmly the only thing we will have to share with others will be our own poverty.

I thank you very much for your kind attention.

Chairman Roth. Thank you, Mr. Fahner, for your very instructive, informative statement. As you know, we had a former resident of your State testify yesterday. He told that you in the period of his operations he sold something like 100,000 false documents which he guesstimated was only 2 percent of the ones sold in the Chicago market. So there is no question that this a critically important problem and that if we don't address it, it has and will have increasingly serious impact on our benefit programs.

One of the suggestions that I have is that we must get better coordination between the States and Federal Government. I do share your interest that there be an exchange of information. As you know there has been a lot of concern, a lot of reservations from both conservatives and liberals that if we have one kind of an identification card that this could be a first step to a police state. Do you think there is some way we can build in the necessary safeguard? You said you were at one time an Assistant U.S. Attorney General. Can we provide for a free exchange of information and yet maintain the necessary safeguards because our citizens do have right to privacy?

Mr. Fahner. Senator Roth, I am not prepared to give you how to do that today but I can tell you with great certainty that it is a problem that can be dealt with and the safeguards can be protected and I think until this country bites the bullet and works out some system like this, we are going to continue to talk about these problems. As I indicated this has been a problem for a long time.

I think that we can remove the fears of all of our citizens, civil libertarians in particular and still do our job.

Chairman Roth. I would like to urge you as a State attorney general, because I think we need the best input we can have as to this problem, to have your association of attorneys general give some time and thought to this problem. We are going to make a number of recommendations. For example, I think the Intergovernmental Advisory Commission which has attorneys general, Governors, as well as Federal officials, should consider how to deal with and address this problem. But I think it would be very helpful to us here on this subcommittee if we could have any suggestions and recommendations that your group might develop now or at any time in the near future.

One of my concerns is that there is not a general awareness of the pervasiveness of this problem. The fact that over 1 million documents may have been illegally sold or forged in the Chicago market demonstrates the pervasiveness of the problem. But you testified that in your State, I will be honest, I think this is typical in most States, there is no cross-checking.

The tendency is for those who are administering the program, whether it is at the Federal of State level, to accept social security cards or almost any document as bona fide. How do we get this kind of awareness? Let me ask you, have you made a concerted effort to make all your State officials aware of this problem?

Mr. **Fahner**. As former director of law enforcement, I know a lot of the directors that are still agency heads and I have made them aware and am trying to expand the program we used for the bureau of unemployment insurance for other State programs which provide assistance. That part is easy. I should point out, I mentioned Mr. George Georgetti. Mr. Georgetti brought me, when I was a young prosecutor, some of the green card cases and 10 years later, he called me and he said, "I think that I need your assistance. I am having difficulty getting through to some of the people in this particular State agency and I think I have something that can contribute and help."

Because of our personal friendship, we sat down, and with the lawyers of the agency, I said, "You will do this without going through all of the preliminaries," and we worked out this project. It has become embarrassing that no one has done it previously. It is so simple. I think all it takes is a State policy of the law enforcement agencies in any State, not just in Illinois, because we moved in the direction you are inquiring about very quickly. But I think the policy of the law enforcement people in the States and the full cooperation—I have to say it has never been lacking in the 2 years that I have been attorney general for the Department of Justice and the Immigration Service.

Whatever I asked for I have received. I think that is the experience of my brother attorneys general around the country. But I think a formal program, if the Federal Government can work out the use of the INS computer—I have forgotten the name; it is something that is descriptive, but it is a very simple thing. You call in a person's name, registration number, birthday into that central computer. They can tell you in a short period of time, given the access to the computer if that person is here legally or illegally. It is just that simple. So we are moving in our State.

But I think the work has to be gotten out by some Federal action to all the States. Just one last point. We have put this on the agenda for the meeting of the national association in July in Michigan.

[At this point, Senator Nunn entered the hearing room.]

Mr. **Fahner**. I have already some conversations with the attorney general of New York, the attorney general of Florida, the States where there is a major problem because of the large number of illegal aliens in the area.

Chairman **Roth**. I agree with you that we ought to develop documents that are less easily forged. I think one of the problems has been that the social security card becomes the critical card just because it was so readily available and was not developed for the purpose of being an identity document. So I think we have to step back and take a total new look at how to proceed best.

What kind of cooperation have you received from the Federal agencies in your efforts to secure information such as social security information?

Mr. **Fahner**. It has been nothing less than superb. We have set up a group in Chicago pursuant to the orders of the U.S. Attorney General, to the U.S. attorneys where we do a joint investigation and prosecutions in many, many areas—not just benefit fraud and medicaid fraud and so forth.

That has been a relatively new experience. When members of the executive committee had a meeting with the President back in April, the attorney general from Massachusetts, who is not of my party, said the cooperation of the Department of Justice is the best it has ever been and he has been the attorney general in that State for quite a while now. So we are getting full cooperation within the boundaries of the financial resources of the Department of Justice, Immigration Service, and all the Federal agencies. I think that is a new experience because, quite candidly, when I was assistant U.S. attorney, we thought we were the only game in town.

We weren't sharing very much with the State agencies. I think the reality of law enforcement, the increase in crime problems these days causes all to step back and do a better job and I think we are.

Chairman **Roth**. I noted that in your testimony a number of legislative proposals for the State. Do you have any suggestions with respect to Federal law? For example, as I understand it, it is not a crime to merely use a false document unless you improperly received the benefit.

Mr. **Weiland**. That is certainly true in the case of visa applications and passport applications, Senator. There has been a problem in that area as far as our legislative coverage.

Mr. **Fahner**. I don't recall all of the Federal title XVIII provisions but I think that a lot of these things can be dealt with now, and it can be simplified if there were a Federal provision that would go, simply to the presentation. In other words, the attempt would constitute a clear crime without having to prove the actual theft by deception in the State level or the fraud in the Federal level. I think that would be very helpful because it would make it much easier than simply stopping crimes in progress and having little prosecutorial incentive to follow through when you have to prioritize everything else that the prosecutor has to do.

Chairman **Roth**. That is my thinking, at least at the moment, too. That would be a major step forward on law enforcement. Senator Nunn?

Senator **Nunn**. Thank you, Mr. Chairman.

I just want to congratulate the majority staff for bringing forward a matter of great importance to the attention of the Senate and the country. I think you have done a superb job in this hearing. The Attorney General, thank you for your testimony. I have really one question. The Supreme Court, I haven't read the decision itself, just newspaper reports of it, ruled evidently that a State cannot deny children of illegal, undocumented aliens a right to a free education. I would like your comments on that in general and in particular whether if you think that that decision would impact programs relating to unemployment compensation and other welfare benefits?

Mr. **FAHNER.** Senator, I read the press accounts. I know it was a 5 to 4 decision yesterday with Justice Brennan writing the majority opinion, Justice Burger the minority. I think that the 5 to 4 nature of the decision would suggest that it is not a significant threat to what we are trying to achieve but I think perhaps one or two of those people on the court. I say this most respectfully not knowing what is in their minds, but it is one thing to deny young children the benefit of an education, especially when our Federal Government talks about bootstrapping some of the people already here illegally into a program versus sanctioning the kind of fraud we have been talking about. I don't think it sets any severe precedential value for eroding our ability to prosecute effectively illegal aliens or those who come here illegally and then cheat the system in addition to their status.

Senator **NUNN.** You are saying there is a distinction as far as the Court is concerned between children and adults?

Mr. **FAHNER.** I guess I am trying to do something I shouldn't do as a lawyer, as the Attorney General and that is to read what the nine people in the Court would do. I think it is one thing to deny benefits to kids, to help them get a start. There were some quotations in the paper which indicated that was part of the majority opinion. I don't think that means that they are going to say that every person who finds his way, his or her way into this country illegally, simply has an entitlement as a matter of law to all of these other benefits.

Without having read the opinion I am giving you my own personal views. I disagree with the decision and the way it came out. I guess I would like to see those young children if they are here illegally get the benefit of education but as a matter of right which is what the court found, I do disagree with that. But unhappily for me at least it doesn't matter.

Senator **NUNN.** As a practical matter one has to ask whether a State government knows that certain children are the children of illegal aliens, if they move to deny them educational benefits or place them in a special category requiring tuition or something of that nature. Why is something not done about the parents who are illegal aliens?

Mr. **FAHNER.** Because that has become a matter of Federal policy The Federal Government has not moved to determine, to decide what to do with those aliens for a long period of time. It goes back at least to 1971. We being the enforcement officials can walk into many of the businesses and in fact we did that in Illinois just a couple of months ago where we knew there were a large number of illegal aliens and I think over 1,000, 1,100 were taken out, removed from higher pay jobs which are now opened up to people who are here legally.

You could walk into many of the hotels of this city and Chicago and New York and make a check. This is not a surprise to anyone who has been around this country. What I am saying is we have failed as a nation to make those hard decisions as to what to do with these people and we haven't tightened our borders which needs to be done. We haven't had the political courage which I think we must to hold people who knowingly and intentionally and repeatedly employ illegal aliens responsible because that has been a political problem.

Senator NUNN. So until the Federal Government makes its decision what is going to do once it discovers the illegal alien, the State government is pretty much strapped as to what to do with the fallout of that?

Mr. FAHNER. Sure. The Federals in Chicago, INS people will almost on a daily basis send busloads of people back to Mexico in particular. They are not prosecuted, They are detained only to turn them back, when they come back into this country, after the fourth, fifth time—at least that was the way it was in the early 1970's, they are prosecuted and take up a place in one of our institutions which causes additional drain on the Treasury to house, cloth, feed, and guard. So as a practical matter until we decide what we are going to do with our borders, what we are going to do with our people already here, what we are going to do to preclude others from coming here, then we are not going to get a hold on it. I am not telling you anything you don't know.

I think we let in almost a million people legally last year. In spite of that we have got several million people in this country illegally. As I said in my prepared remarks, if we don't wrestle with this, because of the nature of these people coming on our public rolls, needing education, all of these sources, not paying anything to the tax base to help us, we are just going to—pretty soon we will have our own poverty to spread around to those people. We won't be the sort of country we have been that attracts them in the first place.

Senator NUNN. Thank you very much.

Mr. Chairman, again I think you have had an excellent set of hearings. I congratulate you on the leadership and I look forward to trying to help you find some of the solutions to the problems you have documented.

Chairman ROTH. Thank you Senator Nunn.

This does bring our hearings to a close. We will have additional hearings later this summer, hopefully having testimony from some of the program policy level officials in the Department of Justice, the Social Security Administration, as well as the State Department.

I would say to you, Senator Nunn, I think you have raised a very valid point. I am deeply concerned as to what this kind of Supreme Court decision may portend for the future. I think we all agree that children ought to have education irrespective of who they are. To what extent each has entitlements or constitutional rights is a question that we may want to look into.

I think it could have a significant impact on many of these programs and the problems of illegal aliens. I would also like to point out, according to today's press reports announcing the capture of Edwin Wilson, the man alleged to have aided Libiyan and other terrorists, apparently he was travelling under a false Irish passport. So this once more underscores and dramatized the importance of illegal documents.

So that to the Attorney General, I want to express our appreciation for your taking the time—I know you are a mighty busy man—to come here. It requires a sacrifice of time on your part. I think your testimony and your suggestions and recommendations are most helpful. I would urge you to keep in contact with us so that we can have the advantage of your judgment.

Thank you very much.

Mr. FAHNER. Thank you, Mr. Chairman.

Senator NUNN. Thank you.

Chairman ROTH. The subcommittee is in recess.

[Whereupon, at 12:30 p.m. the hearing was adjourned, subject to the call of the Chair.]

FEDERAL IDENTIFICATION FRAUD

THURSDAY, SEPTEMBER 23, 1982

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met at 10:15 a.m., in room 3302, Dirksen Senate Office Building, under authority of Senate Resolution 361, dated March 5, 1980, Hon. William V. Roth, Jr. (chairman of the subcommittee) presiding.

Member of the subcommittee present: Senator William V. Roth, Jr., Republican, Delaware.

Members of the professional staff present: S. Cass Weiland, chief counsel for the majority; Eleanore Hill, chief counsel for the minority; Howard Cox, staff counsel; Karen Hainer and Tom McLaughlin, staff investigators; and Katherine Bidden, chief clerk.

A copy of the letter of authority for the record follows:

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
Washington, D.C.

Pursuant to rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the chairman, or any member of the subcommittee as designated by the chairman, to conduct open and/or executive hearings without a quorum of two members for the administration of oaths and taking testimony in connection with hearings on Federal Identification Fraud to be held on June 15 and 16, and September 23, 1982.

WILLIAM V. ROTH, Jr.,
Chairman.
SAM NUNN,
Ranking Minority Member.

OPENING STATEMENT OF SENATOR ROTH

Chairman ROTH. The subcommittee will be in order.

This morning the Permanent Subcommittee on Investigations will continue its examination into fraud and abuse in the issuance and use of false Federal identification documents and the threat this poses to entitlement and other benefit programs.

Last June we held 2 days of hearings in which a succession of witnesses testified to the ease with which supposedly secure documents can be produced or obtained by illegal means. A convicted forger testified as to the simple means he used to successfully produce a variety of convincing Federal and State documents.

We also received testimony from a variety of Inspectors General and other law enforcement officials who demonstrated the use of false documents to obtain food stamps, social security, and student educational benefits.

We are also aware of problems arising from the fact that Federal agencies do not have a regular system to validate Federal identification information. Agencies which issue the identification documents seem to devote little, if any, attention to the uses of these documents in Federal programs beyond the jurisdiction of their own agencies.

For example, INS issues a document known as the I-94 for foreign travelers arriving in the United States. INS has stated the only purpose for the document is to account for the arrival and departure of the travel. Therefore, the document is a simple form printed by the airlines and stamped by INS. Unfortunately, INS failed to realize that for many travelers this document is the only proof of their legal status within the United States.

Since many such persons are entitled to food stamps, it is the only proof of eligibility they can offer. Therefore, the Department of Agriculture accepts the I-84 as proof of identity and eligibility for food stamps. Until our hearings last June, neither INS nor the Department of Agriculture had ever discussed fraudulent use of the I-94 in the food stamp program. While INS was aware that it was subject to substantial abuse, no effort was made to alert other Federal agencies which also relied upon the document. I am pleased to report that in response to our subcommittee's concern, some of the affected Federal agencies are finally beginning to communicate between one another in an effort to identify and eliminate Federal document fraud.

Clearly more needs to be done to improve cooperation. Because of our concern in this area, the subcommittee has conducted a project which was designed to identify the presence of identification fraud in a variety of Federal programs. From information developed at our June hearing, we prepared a list of 535 false and questionable identities which had been detected by INS, State Department, Education Department, and the Postal Inspectors. While each agency had identified these identities in the course of an investigation, the identity information was never provided to any other agency.

We took these 535 names and social security numbers and provided them to the IGs at Education, Agriculture, Health, and Human Services and to the Customs Service and the IRS. Our purpose was to conduct a limited review of Federal programs to determine if persons were using these false and questionable identities to receive food stamps, social security benefits, income tax refunds, educational assistance, enter and leave the United States and transport money to and from the United States.

We found 60 cases where a false or questionable I.D. had been used to apply for or receive food stamps, educational grants, social security benefits, or income tax refunds. We even found that someone was using the social security number of Newton Van Drunen, our forger from last June, to receive food stamps.

The survey confirmed, I believe, that at the very least, false identification information is a valuable source of law enforcement intelligence information. As our subcommittee staff statement points out, a U.S. passport is a highly valuable document to narcotics smugglers and other criminals. The State Department itself estimates they receive 30,000 fraudulent applications a year. However, the Passport Office detects fewer than 900 a year and barely one-third of these are sent to a law enforcement agency for criminal investigation.

We selected 80 cases of suspected passport fraud which were detected by State as being fraudulent but were never sent to a law enforcement agency. We found that 40 percent of the identities used on these fraudulent applications may have already been identified in the Customs Service lookout system as having been involved with a variety of crimes related to drugs, weapons smuggling, immigration law violations, currency violations, or were fugitives from justice. Because the Department of State made no attempt to refer any of these cases to a law enforcement agency at the time of detection, the Government lost the opportunity to fully identify or apprehend these criminals.

In addition to our study of the interagency presence of false and questionable identities, a number of developments have occurred since our June hearing. In response to our concerns expressed at that hearing, the Social Security Administration announced last month that starting in 1983 they are going to print the social security card on banknote paper, and while this certainly is an important step in attacking the underground market in false social security cards, I intend to question the social security individuals here today to determine what additional steps they have been prepared to take to improve both the card and procedures used in issuing a number.

I have not read the full statement, but it will be incorporated in the written record as I desire to proceed with our witnesses.[1]

At this time, as our first witness I welcome Doris Meissner, the Acting Deputy Commissioner of Immigration and Naturalization Service. Under the rules of this subcommittee, you must be sworn. So would you please rise and raise your right hand.

Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Ms. MEISSNER. I do.

Chairman ROTH. Thank you.

TESTIMONY OF DORIS MEISSNER, ACTING DEPUTY COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE

Chairman ROTH. Ms. Meissner, I would ask that you introduce your companions. We have your statement, and I would ask you to summarize it. I will leave that to your choice but it will be included in the record as if read. We are very pleased to have you here today.[2]

Ms. MEISSNER. Thank you, Mr. Chairman.

I am accompanied by several officers from the Immigration Service. On my far right is Bob Reed, who is with our investigations program. Right next to me is Bob Lockhard who is with our forensic laboratory, and on my left is Ron Stanley who works with our ADIT program.

You have our statement. I would like to give a few summary remarks and then will be pleased to answer any questions you may have.

From an Immmigration and Naturalization Service perspective, document fraud is increasing in two major areas: Fraudulent documents that are used to gain lawful entry into the United States and, second, fraudulent documents that enable persons here illegally, as well as legally, to apply for and receive benefits to which they are not entitled.

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[1] See p. 229 for the prepared statement of Doris Meissner.
[2] See p. 171 for the prepared statement of Senator Roth.

With the increased sophistication of fraud, the detection of bogus documents has become more difficult and INS has waged a continuing battle to control their use. To that end, we have established the forensic document laboratory which we have testified about earlier, and I think the subcommittee and staff are quite familiar with that program.

In addition to the laboratory, INS has taken several other measures to combat document fraud, and I would like to give you a thumbnail sketch of some of those recent steps.

First, we are actively working with several other agencies in the Federal Government to stem the use of fraudulent identification. We are hosting a series of conferences, one of which was held recently in connection with Project Baltimore, a joint HHS-INS investigation. The objective of those meetings is to sensitize other agencies in the Federal Government to the use of fraudulent immigration documents so that they are able to detect people who are using their programs and are not eligible.

Chairman ROTH. Could I ask you a question there? Have you made any effort to inform State agencies as well?

Ms. MEISSNER. We have been working with State agencies, most particularly with regard to the I-94 document which is the one you are familiar with and have been concerned about. In connection with the I-94, we have now informed State governments that they should not use the I-94 solely as the basis for issuing drivers' licenses and other documents, that it should be used only in connection with other identifiers. We are moving to replace the I-94 with a secure document. I have an example of that to show you if you are interested in seeing it.

Chairman ROTH. Please proceed.

Ms. MEISSNER. In addition to the conferences, we are distributing the numbers of cards that we know to be fraudulent so that other agencies can check these numbers against their records. This is a system that is similar to going to a store with a credit card and being checked in a book to find out whether the card ought not to be in circulation.

I have already referenced the third step that we have taken. As you stated, we have always known that the I-94 is an insecure document and the reason is that its purpose has been only to serve as an arrival and departure document. What has happened is that more and more groups of people coming to the United States as nonimmigrants have for one reason or another needed to have identification to use for banking purposes, for example. Thus the I-94 has been used to meet needs beyond its original intended purpose.

We are presently taking several actions with respect to the I-94. First, the I-94 arrival and departure system into and from the United States is being overhauled and an entirely new system will be in place as of January 1983. The I-94 as an identification document will go out of use at that time; groups of people such as students who need an I-94 for reasons other than arrival and departure in the United States will be issued a document which is similar to the ADIT card.

We are presently experimenting with that new document on a group of Haitians who have been released from our facility in Florida under court order and who need to have a document for identity purposes. As a result of what we learn from this group, we will expand that card issuance to other groups of nonimmigrants who have similar needs.

In the past, I am aware that the subcommittee has been quite interested in the ADIT card and the ADIT system, so I would like to close with a statement on the ADIT card itself. The ADIT program developed a documentation system which we believe has proven very effective. To date, approximately 3 million secure, machine-readable cards have been produced and issued through the ADIT system. The cards are produced at a centralized contractor-operated facility under strict Government control. The card provides the Immigration Service with a valuable identification tool and, in addition, it is supported by a data base available to our personnel and to other governmental agencies for verification purposes.

We presently have 500 terminals at 63 locations nationwide that can access ADIT data. These terminals enable INS officers to compare the card data with the information contained in the master data base.

That completes my summary remarks and I would be pleased to answer any questions.

Chairman ROTH. It is my understanding that INS has spent millions to develop this counterfeitproof ADIT card. However, the computers to read the cards, I gather, have not been purchased. Has anything been done to correct that situation?

Ms. MEISSNER. We have changed our view over the last several years with regard to the card readers. Our original plan was to have the ADIT plan go through a card reader. We do not now believe that is the best way to deal with the ADIT card, although ultimately when the State Department passport process and the Immigration process are connected in an automated system, we may very well return to the notion of having readers. But the ADIT card's value lies in several other areas. We have found that we are more effective at a visual use of the ADIT card because our people are trained to know whether or not it is a correct card. There are a number of features on the card, which I can't discuss with you in public session, that allow us by visual inspection to know whether or not it is a good card.

In addition, the card is backed up by a data base so that if we need any further verification on the person, we can access the data base. We believe that in combination with the tight security that surrounds the issuance of the card, we have a better program and better system than we would have had with the machine reader alone.

Chairman ROTH. According to our review, INS spent over $2 million in research and development to come up with the ADIT card. I understand that the R&D contractor told you that the card was never designed to be a secure document by itself and you need secure computers to read information on the reverse side for the card to actually work as a secure document.

I understand that after you developed the card, that the Mitre Corp., which assisted you in developing the card, released this publication which actually explains how the card is produced. Were you aware of this? We had contacts with two independent experts in the field and they state this book is a virtual "How to make" book on the production of the ADIT card. Therefore, it appears that many of the supposedly secure features of the ADIT card may have been compromised. Why was this book ever published if it compromises the very thing the Government was acquiring?

Ms. **Meissner.** I am not aware of the book and I am not aware of the circumstances of its publication. One of my colleagues may have more information.

Chairman **Roth.** It is ironic, though, that we go out and get a private contractor to develop a card to hopefully make secure our identification cards, but after they do it, they publish all the information and make much of the confidential information available.

Ms. **Meissner.** I would be very surprised; I have not seen that publication. I would be surprised if, in fact, it is a "How to" book. We would be happy to examine it and get back to you. We are quite confident that the security of the production process is intact.

Chairman **Roth.** Mr. Weiland?

Mr. **Weiland.** Mr. Chairman, if I may just comment for a moment. As part of our staff analysis of this book which we secured from a contractor who had come across it, we took the book to two different independent experts and asked them to take a look at it and determine whether by using this book one could, in fact, break down the ADIT card and produce the card, and the information we received from those sources was, in fact, that this book was a virtual "how to make the ADIT card." The staff was quite concerned about this circulating.

Ms. **Meissner.** I would be just as concerned. As I said, I would be pleased to look at the book and will respond to you. We have no reason to believe the integrity of the process has been compromised.

Chairman **Roth.** As I say, that apparently is not the expert advice we have received, but I would want you to take a careful look and let us know. It is a very serious problem, if true.

Ms. **Meissner.** We will.

Mr. **Weiland.** Mr. Chairman, if they talk to the Mitre Corp. in Boston, the company itself will admit that this is the key to the card, so to speak.

Chairman **Roth.** I wonder what commitment your organization has made to participate in joint projects with other agencies and States, such as Project Baltimore which was described at our last hearing to flush out the economic impacts of false identification cards?

Ms. **Meissner.** We have a very strong commitment to that type of activity. It is natural that we would because we do not have the resources to cover the map fully on such fraud. One of the best program efforts we can make is to interest other agencies in the extent to which aliens may be improperly benefiting from programs that other agencies administer.

I think it is fair to say that we have pressed this issue with other governmental agencies for quite a few years but it is only recently that we have received the kind of interest that we had hoped for. I think that is simply a matter of heightened awareness and increased concern about budget constraints and so on.

One of the most important things that we can do is educate the personnel of other agencies in the same way we have educated our own personnel to deal effectively with immigration documents.

Chairman **Roth.** Do you have any examples of exactly what you have been doing in recent months?

Ms. MEISSNER. Yes, I do. It is outlined in our testimony. We can give you the dates and meetings we have held. We have set up several interagency groups; we have been in contact with State governments with regard to the I-94. As I said, we will be replacing the I-94 system with an entirely new system this year. I think that we are taking quite an aggressive approach to this issue.

Chairman ROTH. At our last hearing, the subcommittee staff illustrated a case of an illegal alien who had been deported and later indicated for student loan fraud. No record of his deportation was in the INS or State Department's Lookout system. It is possible, therefore, that this person could have reentered the United States, as he had been known to do once before. In that matter, if this subcommittee had not informed the State Department of this case, the State Department would never have learned of it. In light of this case example, what has INS done to improve the procedure of sharing records of deportation with other agencies particularly the State Department?

Ms. MEISSNER. It is an important area and it is one that we have been concerned about as well. We have standard categories of deportation cases where we regularly inform the State Department of a deportation but we do not do it across the board. The reason we don't do it across the board is purely a matter of volume and the fact that the records on deportation are not automated records. Our deportation records will be automated this fiscal year and, in fact, the first automated deportation system will be coming on line October 18 in San Diego, which is one of our very large deportation districts.

The new automated docket system will enable us to give all deportation names to the State Department or whomever else has a legitimate interest.

[At this point, Senator Cohen entered the hearing room.]

Chairman ROTH. Mr. Weiland.

Mr. WEILAND. Mr. Chairman, I would like to point out for the record, if I may, Mr. Lockhard was here before in June. We appreciate very much the assistance he has provided at the staff level over the course of the last several months.

I would just like to ask one question, if I may, about the experimental project with secure documents for the Haitians who have recently been released. Can you tell us something about the cost of that program and also, as a matter of curiosity, whether the Department has information that suggests there is a definite problem with penetration of benefit programs by Haitians in this country?

Ms. MEISSNER. Our information with regard to the Haitian use of benefit programs is that Haitians are not using benefit programs to any greater degree than any other similar group. Naturally this kind of information is imprecise by its nature. But the Haitians should not be singled out as any more or less prone to using benefit programs illegally.

It is important, also to understand that most Haitians in the country at the present time who have any kind of INS identification are here under color of the law. They do not have permanent status but the people who are being released, for instance, are released under court order.

With regard to the document itself, I don't remember, you had another question.

Mr. Weiland. I was interested in the cost, if you have any cost figure?

Ms. Meissner. I believe it is about $4 a card. That is because it was a special program that we put into place, so it required some special handling. There are only about 2,000 cases so we are not getting the cost benefits of a larger project.

Mr. Weiland. What do you have the cost of the ADIT card down to?

Ms. Meissner. It is presently about $3.30. We have reissued the contract for the ADIT facility and we will have a new contractor at the beginning of fiscal year 1983. The cost in the coming year will be approximately $2.30 per card.

Mr. Weiland. Thank you, Mr. Chairman.

Chairman Roth. Let me ask one further question about aliens who present false information to the U.S. consular officials in order to obtain nonimmigrant visas. It is my understanding that the policy to exclude those who use fraud to obtain a visa is set forth in a 1961 Attorney General Opinion. I further understand this opinion discusses at great length the question of whether a misrepresentation is material or not. The information I have received from the State Department concerning its implementation of this ruling indicates a serious problem, namely that a retraction will purge a misrepresentation; a willful admission does not amount to a misrepresentation, a misrepresentation as to identity is not automatically considered material. It seems that these interpretations substantially undercut Congress' clear intent to exclude those who seek to use fraud to enter the United States.

Don't you think a hard look at the implementation of this policy both by State Department and INS would be advisable?

Ms. Meissner. That opinion focuses, as you have said, on the issue of materiality and whether or not the fraud is connected with the ultimate decision that needs to be made. It is my understanding that the reason any kind of misrepresentation is not necessarily used as fraud is because there are circumstances where people have simply made a mistake and the opinion seeks to eliminate people who have made an unwilling error from being charged with fraud. It has been our view and State Department shares the view, that the opinion is strong enough and gives enough basis for effective fraud enforcement without being unduly harsh with regard to people who have made a simple mistake.

Chairman Roth. One of our reasons for concern is that at our last hearing, it was pretty clearly demonstrated—we are not talking about those who make mistakes that those who enter through fraud are those who are likely to commit fraud once they are here to obtain benefits under the various benefits. So it is an extraordinarily serious problem and very expensive to this government. It has been estimated by a Commission that studied the problem 10 years ago, and it is a guesstimate, of course, they guesstimate that it could be costing the Federal Government as much as $15 billion a year in all fraudulent identification cases.

I would strongly urge you to take a strong hand. We do have a serious problem now of abuse of these programs.

Senator Cohen?

Senator Cohen. No questions.

Chairman Roth. Thank you very much for being here today. I will be very anxious to get your comments on this publication because if the information that we received is sound, it certainly raises some very serious security questions for you.

Ms. Meissner. That is correct and we will be very anxious to look at that as well.

Thank you.

Chairman Roth. Thank you very much.

At this time, we would like to call up and are very pleased to welcome John A. Svahn, Commissioner of Social Security.

Gentlemen, if you will please rise and raise your right hand. Under our rules you are required to testify under oath. Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth and nothing but the truth, so help you God?

Commissioner Svahn. I do.

TESTIMONY OF JOHN A. SVAHN, COMMISSIONER OF SOCIAL SECURITY; ACCOMPANIED BY MR. DELL'ACQUA, OFFICE OF GENERAL COUNSEL, DEPARTMENT OF HEALTH AND HUMAN SERVICES; MR. PAUL SIMMONS, DEPUTY COMMISSIONER OF SOCIAL SECURITY

Chairman Roth. Please be seated.

Mr. Svahn, we are very pleased to have you here today. I will tell you as I did the earlier witness, you may summarize, if you choose, your testimony and your full statement will be included as if read.[1] We would also be very pleased if you would introduce your colleagues.

Commissioner Svahn. Thank you, Mr. Chairman.

On my right from the Office of General Counsel, Department of Health and Human Services, Mr. Dell'Acqua and on my left Deputy Commissioner of Social Security, Mr. Paul Simmons.

I appreciate your allowing us to submit a rather lengthy statement which is in response to the request of the subcommittee for the record. I would like to summarize it a little bit, if I may, Mr. Chairman.

I welcome the opportunity to discuss the use of the social security card as a form of identification here today, and I would like to say we applaud the efforts of this committee in investigating the problem of fraudulent use of Federal identity documents. With regard to the use of the social security card, you asked for our views on forms of identification and requested our comments on several specific questions concerning safeguards in the social security number issuance process and our policy on disclosing and sharing identity and SSN information. I will refer to the social security number as the SSN.

At the outset, I want to emphasize that the social security number system and the social security card were not intended to be relied on by themselves as personal identification. For years, Mr. Chairman, the social security card said right on the front, "Not for identification." Historically the numbers have been easy to obtain and there was no need for a secure card for social security purposes. The Federal Government, when it began the enumeration process, kept the system loose, very loose, in order to get Americans to agree to get a social security number and have their earnings reported. In recent years, the use of the number for other Government and private sector purposes has grown steadily, accompanied by growing concerns about the potential abuses of civil liberties and personal privacy.

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[1] See p. 236 for the prepared statement of John A. Svahn.

Some of the expanded uses of the social security number have been mandated by statute, such as the 1972 Social Security Act amendments which required Social Security to issue social security numbers to legally admitted aliens, and the Tax Reform Act of 1976 which authorizes States to use the social security number in State programs for taxation, public assistance and driver's license or motor vehicle registration programs. Social Security has also been required by law to strengthen the issuance process for social security numbers and we have moved to automate the issuance process to do that.

We have taken additional steps to improve the integrity of the social security card and issuance process, such as including the legend "Not Valid for Employment" on the card for persons who are not legally authorized to work in this country.

We just implemented a district office direct input system which automates, centralizes, and speeds up the issuance of the card and eliminates all of the card stock from our local offices, thereby avoiding the possibility of theft and illegal issuance. We are also providing additional training in counterfeit document recognition for our district office employees who handle social security number applications, and we are striving to aid in the enforcement of immigration rules by sharing information with the Immigration and Naturalization Service.

As you know, the Social Security Administration expects to begin issuing new and replacement cards on counterfeit-resistant paper some time in 1983. I just came from a hearing in the other body in which that matter was discussed quite extensively. The idea of making the social security card counterfeit-resistant has been discussed with a number of groups over several years. The advantage of this action is that it is very inexpensive, could be introduced without changes to the social security card issuance system and would make the card more durable and more difficult to alter or duplicate.

In discussing our decision to put the cards on more counterfeit-resistant paper, I must emphasize that the Reagan administration has repeatedly stressed its opposition to the creation of a national identity card because of its concern about individual privacy. In addition to the privacy concerns, any effort at this point to make the social security card a truly secure identification document will be ineffective because the card can only be as reliable as the documents that are used to get the card. All existing cards issued prior to 1972 were given to people and their numbers were given to people based on their application and their assertion of who they were and when they were born because for SSN's Social Security didn't require any proof of who you were or your age before 1972.

So the majority of the cards that are being used now were issued to people only on their allegation as to who they were. To be effective, any suggestion of using the card as an identity document would also have to require that a new, more secure, card be issued to everyone in the country. The process of verifying identities and reissuing everyone a new card would be very costly, very burdensome on the public and something that should be approached with only the greatest of caution.

With regard, Mr. Chairman, to our disclosure policy, let me say the Social Security Administration has always been concerned with the confidentiality of the information that we hold in our files. As you are aware, over the years, various legislation, such as the Freedom of Information Act, the Government in the Sunshine Act, the Tax Reform Act of 1976, and so on, have affected our disclosure policy. Currently, we provide information regarding eligibility and benefit amounts to programs with objectives similar to Social Security's and for purposes of law enforcement. I might add, Mr. Chairman, that as a result of my own preparation for this hearing, we are currently reviewing our entire disclosure policy. Several cases have come to light in which I think we are not disclosing information that we should be disclosing to other agencies for purposes of law enforcement.

This in no way would detract from social security's long-standing commitment to protect the privacy of the information that we have in our files on over 200 million Americans. We recognize the importance and the priority of our current effort to reduce abuse of Government programs but we also have to recognize that we must protect that privacy and be very cautious about relinquishing it.

I thank you, Mr. Chairman, for your attention and I will be glad to respond to any questions you may have.

Chairman ROTH. Thank you, Mr. Svahn.

One of my concerns is that we are not very realistic in this whole area. It seems to me whether we like it or not, whether it was intended or not, that in many ways, your social security card has become the national identification by use so that there is a tendency here in Washington to put heads in sand and say it ain't when it is.

I happen to be one of those who don't like the idea of a national identification card. I think we are all very concerned about that development, but what I am concerned with seems to be happening anyway. Because we don't recognize the problems, we have a card that has been easily forged and has become a vehicle for tremendous fraud, not only in social security but in other programs.

Don't you agree that the social security card has become the most important identification card in the country today? You have 230 million of them now?

Commissioner SVAHN. Yes, we have issued about 250 million cards. I don't know that it is the most important piece of identification. I think that the number has become the most frequently used identifier in the country. As you pointed out, the card is very easy to counterfeit and the number is the identifier and is required to be in the military, to get drivers' licenses in many States, to go to postsecondary school, and for a number of different things.

The problem is that the number is not a secure number.

Chairman ROTH. Yes; right. And we use that as an identifier in many of our own Federal programs.

Commissioner SVAHN. That is correct.

Chairman ROTH. So if it is not secure, we really open the door to fraud.

Let me ask you because it seems to me one of the problems we have got to struggle with is the right to privacy versus trying to do something about the tremendous problem of fraud and abuse. I mentioned earlier, it was estimated 7 or 8 years ago by a special commission that it could be as much as $15 billion in the entire area. And I am talking about social security. We are not talking small sums now; we are talking tremendous sums.

Do you think there is some need of Congress, maybe, developing legislation, trying to achieve a better balance between the rights of privacy versus the needs of eliminating fraud and abuse, or do you think the current laws are adequate in this area?

Commissioner SVAHN. I think that there has to be a balance, obviously. I think, in our past history, we have been on both sides of the center in that area. For a while, public policies were unbalanced where there was too much investigation and too much release of private information and then our pendulum swung back and we couldn't release anything. We, ourselves, at SSA are caught a little bit in that dilemma. We have negotiated for some years now with the Internal Revenue Service about use of earnings information that become subject to the rigid statutory restrictions against disclosure of section 6103 of the Internal Revenue Code when the Congress passed the Tax Reform Act of 1976.

We are negotiating with the IRS right now and I think we have got some of our problems worked out. There does need to be a balance between our need to insure integrity of Government programs and our need to insure the privacy of our own citizens.

Chairman ROTH. I fear that the pendulum has swung from one direction to the other depending upon the bad examples of the moment rather than trying to reach a reasonable compromise, if you can call it that.

Commissioner SVAHN. I would agree with you there, Mr. Chairman.

Chairman ROTH. I would like to hear more about this new social security card you told Senator Moynihan about last month. Is that supposed to be tamperproof?

Commissioner SVAHN. We intend to issue the new cards for new applicants and for replacement purposes. We are in discussions right now with the Bureau of Engraving and Printing as to the design of the card and the level of security in the card. We are tentatively planning to issue it on banknote-type paper rather than the pasteboard that we have used since 1937. So it would be a more tamperproof, and less counterfeitable card than we currently have, yes, but no card can be completely tamperproof.

From our standpoint, the new paper will make the card more durable. It would take a very long time for everyone in this country to have in their hands one of the new cards instead of the one they currently have because we only plan on issuing them to new applicants for cards and as replacement cards.

Chairman ROTH. It will only go to new cards?

Commissioner SVAHN. That's correct.

Chairman ROTH. We, in the Senate, passed some legislation a few weeks ago on immigration reform, as I am sure you are aware. One provision of the bill requires the development of a secure system to enable employers to identify persons who are entitled to work. It doesn't take much imagination to realize that if such a system is going to be developed, the social security card may be a vital part of such a system· What work is your agency undertaking to study ways to develop and implement such an identification system or are you waiting to see what is happening on the House side?

Commissioner Svahn. No; we are not working on developing such a system, Mr. Chairman. I think it would be premature, one, for us to do that. Second, I am not sure the Social Security Administration would be the agency charged with putting that together for the executive branch. As I indicated and as my prepared testimony goes into in much greater detail, we have been taking steps ourselves to improve the system for issuance of a social security card and to make it a more secure process.

Going back to the pendulum analogy, I think we have been on one side on the issuance process for some period of time. It wasn't until I was in a local social security office recently and asked them how many applications the files have for SSN's for legal aliens that I found out we were issuing approximately a thousand cards a week to such aliens. I asked if those cards are any different than the regular cards and they said no.

We annotate the file in Baltimore that the number was not issued for work purposes, maybe for school or for a bank account, but until recently there was no annotation on the card that it was not for work purposes. We are now annotating every card which is issued to a legal alien "Not Valid for Employment." We are making improvements both by accident and in a planned manner to make the issuance system more secure.

Chairman Roth. Is there anything that Congress can do to assist us in this effort to get the agencies to talk to each other?

Commissioner Svahn. As I indicated, Social Security is going to be looking at its own policies, but we have had a very strong reticence, as has had the Internal Revenue Service, to sharing information with other agencies. I am reviewing that entire policy and trying to develop a balance for social security. I noticed in your opening statement you were talking about the names and social security numbers that you provided to the Inspectors General of the various departments. Obviously we are often involved in that kind of effort. Just the other day, I was told that our people have been refusing to give the Agriculture Department information regarding the names and social security numbers of food stamp recipients because Agriculture "wasn't involved in any income security program."

If that is true I think that it is just ridiculous and a little bit bureaucratic. We will be supplying appropriate information to Agriculture. I think there is a lot we can do ourselves in the executive branch to bring the balance into focus.

Chairman Roth. I would ask you to submit to this subcommittee the results of your study. I would like to know in what areas you do provide the information to other agencies, where you think you cannot and should not or where you cannot and you think you should because Federal law prevents it so we can get your best thinking on this matter.

Commissioner Svahn. I will be pleased to provide that analysis to the subcommittee, Mr. Chairman as soon as it is completed.

[The material referred to was not received by the subcommittee at the time of printing.]

Chairman Roth. Senator Cohen.

Senator Cohen. I have just a couple questions.

Commissioner, when you talk about using counterfeit resistant paper, you are saying you have a better grade of paper that may be in some kind of sealed container that makes it more durable.

Commissioner Svahn. We are talking about a better grade of paper, basically banknote paper, at the present time.

One of the reasons it will make the card more tamperproof is because banknote paper is harder to come by, as the Senator knows, and it is also much more durable and is not that much more expensive than the current card.

I caught the end of the testimony of Doris Meissner talking about their new $4 card. Our social security cards cost a penny apiece. Issuing them in more secure format we are thinking about right now, the Bureau of Engraving tells us will be at most about 3.5 cents apiece.

Senator Cohen. You used the word "counterfeit resistant."

We had one witness here at the last hearing who got his master's degree and Ph. D. in counterfeiting Federal documents in one of our prisons.

What you are saying is, you will make social security cards harder to produce, but they won't necessarily be counterfeit proof?

Commissioner Svahn. That is correct, more counterfeit proof than the current card. There are various levels of security which you can build into the printing process.

Senator Cohen. On the one hand, you make it a little more difficult to reproduce the card, but, on the other hand, it really doesn't make that much difference if you don't reform the procedures to get a social security number, does it?

Commissioner Svahn. That is absolutely correct, Mr. Cohen.

As I said, prior to 1972, we just accepted a persons' word when they came in and said, I am Mr. Smith, I was born in 1955, and they filled an application out.

When they came back and applied for benefits, then they had to prove in fact they were 62 or 65. We have tightened up that system and now require documentary proof of age, identity, and citizenship but those documents themselves are unsecure.

You can get my birth certificate and I can get yours. Those are unsecure documents.

Senator Cohen. Even though you are tightening up your requirements of proof, individuals who are really intent on gaining access to the social security system, and thereby gaining access to other benefit programs, will get some other indication of age and go to the social security office and say, here is my phony birth certificate, I am 65 years of age, and now I want my social security card.

Commissioner Svahn. That is true. If I can just comment on that, people don't get social security numbers to apply for social security benefits. It is the access, as the chairman said, to other programs and to other forms of identification that people intent on fraud want to acquire by getting a social security card.

If you go in to get a driver's license and are asked for your social security number, you can give them a random nine-digit number.

There is no sure way they can check whether that is your number or not. Last year Congress made it a felony to misuse a number or give a phony number out. There is no way of prohibiting anyone from getting a driver's license based on the fact they don't know if that is your social security number.

Senator COHEN. What sort of investigation do you make to determine whether or not a number has been secured through fraud? Do you have any current investigations into fraudulent procurement?

Commissioner SVAHN. The number has been determined a fraud?

Senator COHEN. Yes, whether someone has fraudulently acquired a social security number?

Commissioner SVAHN. I do not believe that we have in the past done any ongoing investigation of a fraudulent securing of a social security number.

Senator COHEN. What about the fraudulent securing of social security benefits, then?

Commissioner SVAHN. That is an altogether different issue there. Yes, we have always investigated any indication of fraud there. The reason we haven't concentrated on fraudulent procurement of SSN's is because we have over the years had instances of people reporting in on a lot of different numbers. The issue has come up about illegal aliens. We know that we must have illegal aliens reporting work on nonexistent numbers or taking somebody else's number and reporting on that number.

At one time, about 1943, I believe, we had about 6,000 Americans reporting on 1 number, just 1 number, and there are about 14 numbers like that, specimen numbers that people just pick up and use as their own number. It is only when they come in for benefits that we sort it out.

Senator COHEN. What happens when they come for benefits and you find that they have fraudulently secured benefits from the Social Security Administration? What action do you take?

Commissioner SVAHN. Fraudulently secured benefits, then, of course, that is referred for prosecution and it is a matter the U.S. attorney prosecutes.

If an individual were to come in, and I am quite certain this is correct, if someone comes in and they have been paying in for a lifetime under a nonexistent number or an incorrect number that they made up, or something like that, and filed for benefits, if they are otherwise eligible, they will get benefits based on their work.

Senator COHEN. What about the sharing of information? Once you have determined that someone has secured benefits from the social security system fraudulently, do you turn that case over to other agencies who might be paying out benefits to those individuals?

Commissioner SVAHN. No. I mentioned to the chairman we are looking at our entire policy on disclosure as a result of preparation for this hearing. One of the issues that came up is whether or not we have a list of bad numbers. At the present time we don't, but, we are looking at doing just what you mentioned, so that other agencies will know which SSN's are bad numbers.

Senator COHEN. Let me recommend that to you, because it seems to me it is somewhat parallel, Mr. Chairman, to hearings we have had in our Oversight subcommittee on debarment and suspension procedures. During these hearings we found situations where a contractor had been debarred or suspended from doing business with one Federal agency, but no action was taken to prevent that same contractor from walking across the street to do business with a different agency. There had been no sharing of information between agencies that this contractor had defrauded the Federal Government and ought to be debarred for a period of 3 years from doing business.

One of the recommendations we made was that debarment and suspension procedures should apply across the board. If a contractor defrauds one agency of the Federal Government, it ought to be precluded from being able to have access to the Federal Treasury through another door, at least for a limited period of time.

It seems to me this kind of information sharing would be very important in that regard and should be in your situation, too.

That is all I have, Mr. Chairman.

Chairman ROTH. In line with what Senator Cohen just said, I guess what concerns me is that we just left this sharing of information on an ad hoc basis. I am speaking of Congress now.

For a variety of reasons it hasn't worked very well. I think it may well be incumbent on Congress to enact some kind of legislation setting up a requirement because we no longer can afford to ignore the tremendous losses in these programs.

Those funds are being denied to those who are entitled to them and need them. I notice in your written testimony you made some reference to the $15 billion figure.

Do you have any studies or ideas as to what extent funds are improperly drained from the social security because of this problem?

Commissioner SVAHN. There have been a number of studies. The $15 billion figure includes the cost of all false identification losses in the country and I have seen one as high as, I think, $24 billion. Those are not——

Chairman ROTH. That, of course, involves everything.

I mean strictly social security as to its impact on your program?

Commissioner SVAHN. In the social security program itself, the title II programs, old age survivors, and disability insurance, it is not that much of a problem. What happens to us is it becomes a problem in other programs that we also administer, like the aid to families with dependent children program. There we do have some evidence of a problem.

We recently uncovered a case of fraud in California, I believe it was, where a person was going to our office, our social security office and applying for a duplicate social security card. They gave a name and number and our office was handing them a receipt that said this is to say that John Smith has applied for a social security number to get a duplicate card signed Social Security Administration and this is the number. The person got about 10 of those cards and then went over to the AFDC office and applied for benefits in 10 different names and 10 different numbers.

Due to our systems lag and inability to check right away to find out if a number is valid several days or weeks later it was reported back to the social security office that we have no record of John Smith with that number, it is not a valid number. By then, of course, the damage is done. We are considering no longer giving out receipts for applications for duplicate social security numbers because people are using them like a number.

So, to the extent we have a problem with benefits obtained by use of a fraudulent identity, it is most likely to be in AFDC. I know we have studies and, if I could, I would like to answer your question for the record.

[The following information was subsequently received for the record.]

Commissioner SVAHN. We have no evidence of a problem with people trying to obtain Social Security benefits using false identification. Based on intensive checking of a sample of old-age, survivors and disability cases over a number of years, we found only one case of inaccurate identity. This indicates that there is a very small chance, on a statistical basis, of a problem with fraudulent identity in the regular Social Security programs. In the supplemental security income program, our studies have shown that there are significant problems with other types of misrepresentation such as concealed bank accounts, but that the use of inaccurate identity is almost as low as in the Social Security benefit programs. In regard to AFDC, the States have the responsibility for both identifying and prosecuting fraud of all types. Although there have been numerous cases of a person using multiple identities to obtain AFDC benefits or using their correct identity to obtain benefits in more than one jurisdiction at the same time, we do not have aggregate data on the total amounts of AFDC benefits obtained through use of false identification.

CHAIRMAN ROTH. Thank you, Commissioner Svahn.

We appreciate you being here. As I indicated, I will look forward very much to receiving information on the study you plan to undertake on disclosure and sharing information with other agencies.

Commissioner SVAHN. We will be pleased to give it to you, Mr. Chairman.

Thank you.

Chairman ROTH. Mr. Asencio and Mr. Garrett, if you will please come forward.

If you would please rise and raise your right hand.

Do you swear the testimony you will give before the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ASENCIO. I do.

Mr. GARRETT. I do.

TESTIMONY OF HON. DIEGO C. ASENCIO, ASSISTANT SECRETARY OF STATE FOR CONSULAR AFFAIRS, DEPARTMENT OF STATE; AND MARVIN GARRETT, DEPUTY ASSISTANT SECRETARY FOR SECURITY, DEPARTMENT OF STATE

Chairman ROTH. Thank you. Please be seated.

I assume you have heard my remarks to the other witnesses with respect to your written statement. I would appreciate it if you could summarize.[1]

Please proceed.

Mr. ASENCIO. I do intend to do that. We have submitted a very lengthy prepared statement which I assume would be the basis for questions. I thought I would summarize it very briefly.

I very much appreciate this opportunity to appear before you on issues related to the fraudulent use of Federal identity documents. My specific responsibility is for U.S. passports, which identify American citizens, and visas, which identify foreigners seeking to enter the United States.

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[1] See p. 256 for the prepared statement of Hon. Diego C. Asencio.

The Bureau of Consular Affairs of the Department of State will issue nearly 4 million passports this year with an estimated 18 million in circulation. American consuls at our approximately 240 Embassies and consulates overseas will issue over 7 million visas by the end of this fiscal year.

I wish to emphasize, Mr. Chairman, that we take pride in promoting and defending the integrity of these documents. They have played a long and honored role in the history of this Republic, as well as of the Department of State and its overseas posts.

As this subcommittee is particularly aware, we are engaged in a constant struggle against those who seek to either forge or alter our documents, to obtain them by misrepresentation or, in some cases, simply steal them.

Before responding to your specific concerns, I would like to outline the context in which we seek to exercise our responsibilities.

First, American passports and visas can be regarded as virtually guaranteed tickets for entry into the United States. As such, they are a valuable item exceeding by far the rates of appreciation commonly ascribed to more tangible commodities such as metals, collectables, or natural resources.

In some parts of the world, prospective buyers have reportedly been ready to pay as much as $10,000 for a visa, real or forged. And we suspect that in a few cases, the price could actually be multiples of that figure. This growth market will continue as the world constantly faces political instability, economic depreciation, and injustice.

For many Americans, however, the direct motivation is the appeal of living in the United States and, alternatively, criminal greed. An American passport currently offers the illegal alien the best means of avoiding detection, increases the narcotics trafficker's chance of making a deal, and provides criminal fugitives a means whereby to avoid apprehension in the United States. A visa provides access to American opportunity and freedom.

Second, we have to move swiftly even to have a chance of keeping up with the inventiveness and resources of those seeking to subvert our systems and efforts. Attached to my statement is a list of antifraud actions carried out by this Bureau over the past 18 months. However, I would be the first to admit that we not only continue to have fraud problems but, in the real world, always will. Nonetheless, from that list, let me cite several approaches worthy of special note.

For the first time, we have an integrated bureauwide antifraud program formally coordinated with the other parts of Department of State and even with other agencies, such as the Immigration and Naturalization Service and the Bureau of Customs of the Treasury Department.

Our continuing investments in automation are beginning to pay off. Production of the world's first automated machine-readable passport with new security features was begun in February 1981.

Automated immigrant and immigrant visa systems are now operational in seven of our larger visa posts overseas. We have initiated with INS and Customs an active program designed to develop systems quite compatible for an automatic interchange of data that includes the antifraud aspects of visas and passports. Automation will not only permit us to keep abreast of the expanding volume of applicants that reflect the ease of travel in today's interdependent world, but will also enable us to transfer skilled officers from more routine tasks and allocate them to functions or areas where we face more serious problems, including fraud.

In all candor, part of our problem derives from outmoded legislation and procedures which force us to handle 20th century problems and workloads with 19th century tools.

A particular case in point is reflected in the mutual interest of the executive branch and the Senate in obtaining a waiver of nonimmigrant visas for nationals of countries with good records in conforming to our visa requirements.

I am pleased that the Senate has passed a version of the nonimmigrant visa waiver as part of S. 2222, the overall immigration reform bill, and that similar legislation is pending in the House.

If approved by the Congress, we can drastically reduce less productive visa routines in key countries and shift our focus to where the real problems are.

Third, in protecting against fraud, we must also guard against malfeasance: Fraud aided or abetted by our employees, either American or foreign. I am proud to state that despite temptations, both subtle and direct, the number of employees who have succumbed is very small.

Our record of honesty, integrity, and professional pride is a testament to the quality of our officers and employees in the United States and around the world.

In addition to these considerations, however, I would like to stress my doubt that antifraud efforts can be really effective so long as no uniform standards govern the issuance and acquisition of legitimate documents for illegal purposes.

I am especially troubled with the ease with which a birth certificate can be obtained from any of the over 7,000 different State and local offices that currently issue them.

Fraud perpetrators have known this for many years. Espionage agents and terrorists have used this stratagem since the 1920's in establishing false identities in the United States as cover for their activities. A favorite device is the use of identities of deceased infants because death and birth certificates are not matched.

Until uniform standards exist, passport and other identity fraud will continue unabated regardless of how tamperproof our passports and diligent our personnel.

Finally, in addition to our emphasis on antifraud efforts, the Bureau of Consular Affairs is the service arm of the Department of State.

One of our primary tasks is to facilitate quickly and effectively the travel of Americans overseas and the arrival here of eligible foreigners, businessmen, tourists, students, family relatives, et cetera. Our antifraud efforts must not detract unduly from this service, which is widely expected by the public and Congress.

This concludes my oral statement, Mr. Chairman, and I have submitted, as I said, a lengthier statement for the record. With specific regard to the issues mentioned in your letter of August 24, I will be happy to respond to any of those questions, or any aspect of the fuller statement.

Thank you.

Chairman ROTH. Mr. Garrett, do you want to proceed with your statement?

Mr. GARRETT. Thank you, Mr. Chairman. I appreciate the opportunity to appear before this subcommittee. I also have a prepared statement for the record, and I would like to summarize from that statement.[1]

The Office of Security does have the responsibility for providing professional investigative services, both domestically and overseas for the Department of State. Our Office has a network of officers assigned to 77 Embassies abroad and at 29 locations in the United States. Due to our presence and our accreditation to the overseas programs, we are also able to provide and indeed we have provided services to other U.S. Government agencies, particularly the Departments of Treasury, Department of Defense, Justice, and Office of Personnel Management.

Traditionally, we have investigated passport fraud, visa malfeasance, and general fraud as these cases have been referred to us by offices in the Department of State.

We entered into a support agreement with the Inspector General about 1 year ago to conduct visa malfeasance and general fraud investigations.

We have received 61 visa malfeasance cases in the past year and 100 general fraud investigative requests from the Inspector General and have completed 138 of these investigations.

During the first year, we have prosecuted 1 American officer and terminated approximately 16 Foreign Service National employees for visa malfeasance.

In the general fraud area during the last year, we have successfully prosecuted two Department of State employees and five cases are pending in the court system.

From January 1982 to September 8, 1982, we received 171 passport fraud cases and have closed 94 of these cases.

Many of the open cases are completed, but they are either pending arrest or court action. Since January of this year, we have referred 128 cases of passport fraud to the assistant U.S. attorneys.

Beginning July 9, we instituted new procedures whereby the field offices of the Office of Security receive directly from the passport agencies in the field, cases involving passport fraud. Because of this initiative, we anticipate significantly more passport fraud cases can be handled by our office in the future.

We have attempted to be responsive to the Bureau of Consular Affairs on passport fraud cases and the Inspector General, by a restructuring and reorganization of our Division of Investigation, wherein we are setting up a completely new branch to be responsive to each of these organizations. We are also entering into an intensive-training program and we are at the present time contracting out our less sensitive, our lower priority type general background investigations so that we can effectively process all the investigations referred to us by either the Bureau of Consular Affairs or the Inspector General's Office.

That completes my statement, Mr. Chairman. I will be glad to answer any questions.

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[1] See p. 264 for the prepared statement of Marvin Garrett.

Chairman ROTH. I think the seriousness of the problem in the area you gentlemen deal with is underscored by the fact that the study made some years ago about fraud and abuse of programs resulting from misidentification announced that something like $15 billion admittedly as a guess or estimate, nevertheless, the dimension of the problem is very serious. It is my understanding that visa applicant misrepresentations and fraudulent use of documents to establish visa entitlements appear to be everyday occurrences at certain overseas posts. Given the number of foreigners which require visas, do you think the visa screening process should be performed by trained individuals? Is there serious consideration being given to turning the process over to INS?

Mr. ASENCIO. Mr. Chairman, I would like to differentiate between screening and adjudication. We do have Foreign Service nationals engaged in screening to determine whether all the documents are in order and have been presented by a foreigner applying for a visa.

Universally, in all cases, the adjudication with regard to the issuance of a visa is by an American officer. If that does not occur, it is, in fact, an aberration and we take great pains to determine that our American officers are sharply trained to avoid being used by dishonest employees.

Now, with regard to turning the process over to the Immigration Service, that has been an issue that has been debated over the last few years. It would seem to me that the system we now have, the so-called two-tier system where my jurisdiction, in fact, ends at the water's edge and the immigration system picks it up at that point, in fact is a very valuable doublecheck and if we reverted only to one agency in handling the issuance of visas, you would, in fact, be giving up one of the national safeguards which, I might add, was developed and imposed by the Congress.

Senator COHEN. Mr. Chairman, could I inquire?

Chairman ROTH. Sure.

Senator COHEN. It is my understanding that INS and State Department have worked on machine-readable documents, and each has developed its own document-reading machine. Yet each one is inconsistent with the other.

How is that a doublecheck when you have two systems which conflict, rather than complement, each other?

Mr. ASENCIO. What happened, Senator, we proceeded to produce a machine-readable visa and INS, for any number of internal reasons that I will leave to them to explain, was not able to come up with a system to read the visa. We now have a State-INS-Customs Committee with the participation, particularly of Romano L. Mazzoli, chairman of the House Immigration Refugees and International Law Subcommittee, who has been after us on this very point and has insisted that we work out procedures to determine the compatibility of our computer systems and we are heavily engaged in just that.

For instance, with regard to legislation currently pending, the nonimmigrant visa waiver provision of the immigration reform bill, we are required by the legislation to come up with compatible systems in arrival and departure entry systems. So what I am saying is that we are engaged in trying to establish such a compatability. It is not here yet but it is—fairly close.

I would say give us a year and we will have it.

Senator Cohen. That is 40,000 more illegal documents.

Mr. Asencio. Undoubtedly. Let me emphasize that I have produced a machine-readable visa.

Senator Cohen. INS will follow. I'm sorry, Mr. Chairman.

Chairman Roth. That is a question I, too, was interested in.

Why should it take a year to work it out?

Mr. Asencio. Computerization systems, Mr. Chairman, are the most devilish things in the world. Actually we have been working on this for a number of years. My understanding is that as a rule of thumb, it usually takes about 5 years from the idea to the implementation of any sort of complex computer system at all. Certainly, for instance, in developing our own travel document issuance system, it has probably taken that long. So it is not a question of lack of will or violation but the fact that these things are complex. Again, I don't want to preempt INS's time. I know they have a good story in this regard on the things they are doing to bring their computerization programs up to snuff, and I think the complexity of such programs will be manifest.

Senator Cohen. Just about the time of senatorial terms, Mr. Chairman.

Chairman Roth. During our investigation, we learned that if an alien is deported from the United States, it is relatively easy for him to return because INS did not routinely notify the State Department of all deportations.

Do you believe that INS should notify the State Department of all deportations?

Mr. Asencio. Absolutely, Mr. Chairman. Actually, again as part of this system of cooperation and compatibility, we are taking any number of steps in this area. One of the facets of the two-tier system heretofore was that there was somewhat of a sense of rivalry between the two organizations. One of the things that I have tried to do, and with the support of Commissioner Nelson, particularly, was to establish a relationship as sister agencies. As such, in addition to this compatibility effort in computerization, we also, for instance, started an exchange of personnel, had joint meetings on the management side and are closely following the systems that would be required for a nonimmigrant visa waiver bill.

We think all of this will eventually develop to the point where both agencies will be working very closely together. I think that in the last couple of years we have made some substantial strides.

Chairman Roth. Let me turn to another side of this same problem.

Mr. Asencio. Sure.

Chairman Roth. And that is sharing of information. What steps have you taken to work closely with Federal benefit agencies to determine if visa and passport fraud is a significant issue in receiving illegal benefits?

Mr. Asencio. I would say certainly with the social security people our record is good. I think it stops there, in fact. We have exchange of information with social security. We have given them considerable amounts of our didactic materials and equipment for training of people. We do work with them fairly religiously. But I would say our record would be even better, for instance, in our cooperation with INS and Customs.

If you talked about other Federal benefits, I would think that we really do not do all that much.

Chairman ROTH. Do any current laws give you difficulty in sharing such information? The Privacy and Freedom of Information Acts, do they provide you any problems in this area?

Mr. ASENCIO. Certainly with regard to involvement of U.S. citizens, or people that are here legally there may be some problems. Not with regard to aliens as such.

Chairman ROTH. Senator Cohen?

Senator COHEN. Would you agree that there is a correlation between individuals who would forge or acquire in a fraudulent manner, passports and visas and those individuals acquiring Federal benefits? Is there a direct correlation in your mind? In other words, do you think that anyone who would gain access to this country illegally would be more than likely to gain access to the Federal Treasury illegally?

Mr. ASENCIO. I would say, if I can answer it yes and no——

Senator COHEN. Yes and no.

Mr. ASENCIO. First of all, anybody who would lie to a consular officer would be prepared to lie to anybody else. So in that sense there is an obvious correlation. I would say that, at least the illegal aliens I have become familiar with, their principal purpose in coming to the United States is to get a job, to find work, to progress economically. I would suspect that in the majority of the cases the correlation that someone is coming in order to plug into our welfare system is probably overstated.

Senator COHEN. I do not question that, but to the extent they come here illegally to get a job, to the extent they get that job, to the extent they then get hurt and acquire workmen's compensation, and to the extent they get laid off and get unemployment benefits, it all totals up in the end that they are acquiring those benefits illegally. Even though their motives may be purely economic and quite understandable, their illegal entrance into the United States has allowed them to also tap into the Federal Treasury illegally.

Mr. ASENCIO. That is absolutely correct, Senator.

Senator COHEN. I think you have indicated some 4 million people acquire visas annually. Is that right?

Mr. ASENCIO. Passports. Visas is closer to 7 million.

Senator COHEN. I think your testimony indicates about 1 percent of those are fraudulently acquired.

Mr. ASENCIO. Not my testimony, Senator. One of the curious things about the immigration field, and this whole issue of illegal aliens, what has always bemused me is these estimates. I don't know where that 1 percent number came from. I don't know where the estimates have come from on the number of illegal aliens in the United States. I am skeptical, sometimes cynical, about such estimates, which seem to be fairly flexible depending on whether you want to scare someone or allay their fears. So I would not accept 1 percent as an adequate either guess or estimate. I just don't believe it. My thesis would be that there is absolutely nothing that I can see that would lead one to conclude that that is a valid figure.

Senator COHEN. So in the absence of proof positive, you do not accept anything?

Mr. ASENCIO. My figures are as good as anybody else's.

Senator COHEN. What figure do you use?

Mr. ASENCIO. I don't; I don't. The only figure that I have that I put any credence in is the fact that, for instance, we have been hitting passport fraud cases at the rate of about 1,000 a year, a little more, a little less, for several years, even curiously and interestingly with intensified antifraud procedures. I would say that is a real number, but obviously the correlation between that and the 1 percent is so immense that it boggles the mind. Obviously there has to be more, but that is what we are dealing with.

With regard to visa fraud investigations abroad, we are talking about 53,000 cases this past year. That is a real number. Again I would suspect that the numbers could possibly be substantially larger.

Senator COHEN. I am told the State Department has agreed that 1 percent of all passport applications are, in fact, false.

Mr. ASENCIO. Not the Bureau of Consular Affairs, and not me. Whoever has wasn't doing so under my imprimatur.

Senator COHEN. And you would advise the State Department to adopt your formula, which is no formula at all?

Mr. ASENCIO. That is correct. The 1 percent is no formula at all, also.

Senator COHEN. Tell me, of the 1,000 cases you detect every year, how do you dispose of those?

Mr. ASENCIO. Various ways. Right now with an increased participation of our own security office, and Mr. Garrett can speak to that, but we also refer a number of these cases to INS, in the case of aliens, to the FBI, to Customs, where we have had special agreements and to the DEA; to those specific agencies that might have a particular interest in the nature of the violation.

Senator COHEN. We were under the impression that about one-third of the cases was sent to the Office of Security Investigation, another third of the cases was closed because you did not have enough investigative staff and the remaining 300 cases or so each year were referred on to Customs. And yet we have records indicating that only 50 have been turned over to Customs thus far. Where are the other 250?

Mr. ASENCIO. Let me look into that.

I don't know on the face of it. I was looking at the chairman's prepared statement on my way in to the hearing and a reference was made to 80 cases that were not referred anywhere. It is my understanding that in those cases we had had specific problems, in fact, getting anybody to take an interest in them. This is one of the problems that we had been discussing with the committee staff. I don't know if that is the area that you are pursuing. But basically we turn over those cases to specific agencies where those agencies have a very special interest in the nature of the violation. That may be the answer with Customs, but I will check it to be certain.

Senator **Cohen**. You touched upon this briefly in your testimony that terrorists have used a certain procedure; namely, taking the death of young infants and using that.

Mr. **Asencio**. That is correct.

Senator **Cohen**. Is it a threat of increased proportions today with the spread of global terrorism and with the kind of movement we have seen, just to take the assassination attempt of the Pope by way of an example, that warrants increased attention being given to that? Secret Service, for example, would be very interested. I understand it made a tender offer to cooperate with State Department to investigate fraudulent passport cases on a trial basis. Has State accepted that?

Mr. **Garrett**. I have heard through the grapevine that Secret Service would be interested in conducting passport fraud investigations in Miami, Fla. They have not contacted me officially or unofficially. In terms of terrorism, as it relates to fraudulent passport or visa, we have not experienced, at least based upon the Department of State records, terrorists groups coming in with false passports and false documents.

Mr. **Asencio**. Can I add onto that?

Senator, as you are aware, I am a former hostage and I have a rather sharp personal interest in terrorism. I have just written a book on the subject.

Senator **Cohen**. Who is the publisher so we can get it out?

Mr. **Asencio**. It is the Atlantic Monthly Press in conjunction with Little Brown. It will be out in February.

Senator **Cohen**. I have one coming out next week.

Mr. **Asencio**. I consider that we would very well be at the beginning of a terrorism cycle and that we have been lucky so far, and that one of the things we have to watch for is the possibility of this coming to the United States full bore. It seems to me there are any number of elements already here.

One of the things that struck me in preparing for this testimony and in my considerations for writing a book is the fact that they do not have to counterfeit, they do not have to steal, they do not have to lie because the system for the acquisition of a birth certificate is so simple, so beautiful that it would seem to me that the liars, the counterfeiters, and the stealers have to be a minority because the other one is so easy. You just send your money, you have a name and date of birth, and you get your birth certificate and with that, you get everything else. And unless that particular loophole is addressed, and I would urge this committee to really look at this very hard and I know there is model legislation at HHS. I think unless you look at that, you haven't really looked at the full picture.

Senator **Cohen**. That is all I have, Mr. Chairman.

Chairman **Roth**. Mr. Weiland.

Mr. **Weiland**. Mr. Garrett, with respect to your having heard through the grapevine the Secret Service's offer to investigate passport fraud cases, I must say I am surprised that it has not filtered up yet. Our understanding is that Michelle Truitt, at the Passport Office, has been contacted by the Secret Service and the offer has been extended. So perhaps you could speak to her about that.

I would like to ask Ambassador Asencio just a couple of quick questions. With respect to the so-called check and balance system you have with the INS, do you have a figure for the number of nonimmigrant visa holders that INS has turned back at the border, say, for any particular fiscal year?

Mr. Asencio. I do not.

Mr. Weiland. What about visa application rejections that your own people have made?

Mr. Asencio. They vary, of course, radically from country to country. They could be as high as 70 percent. For instance, the basis of the nonimmigrant visa waiver provisions is those societies where the refusal rate is below 2 percent and there are a substantial number of those, also. But I can certainly prepare for the subcommittee a schematic of what our refusal rate is. I don't know what depth you would like this, country by country?

Mr. Weiland. Mr. Chairman, if we could ask at the staff level for perhaps a breakdown of your dozen countries who have the greatest problem?

Mr. Asencio. I think that would be easier to handle.

[The information follows:]

HIGH FRAUD POSTS

	Number of refusals	Refusal rate (percent)
Post:		
Kingston	43,135	55.5
Manila	18,911	24.0
Santo Domingo	15,105	33.9
Bogota	15,000	19.3
San Salvador	13,766	41.9
Seoul	13,499	18.9
Lagos	11,659	29.0
Port au Prince	10,228	28.3
Beijing	7,144	47.2
Managua	6,420	26.2
Warsaw	6,080	26.6
Beirut	4,737	35.4

Note: These statistics are for the 1st 3 quarters of fiscal year 1982.

Mr. Weiland. Also, do you have the figure for the number of refusals based on will of the concealments which then would be a permanent refusal for the applicant?

Mr. Asencio. Yes, I think we can do that.

[The information follows:]

ATTACHMENT B

212(a)(19) Refusals by Post, fiscal year 1981

Post	*Refusals*
Accra	8
Addis Ababa	1
Algiers	2
Amman	10
Amsterdam	5
Ankara	2
Asuncion	1
Bangkok	4
Barranquilla	1
Beijing	1
Beirut	5
Belize	10
Berlin (West)	2
Bern	1
Bilbao	2
Bogota	60
Bordeaux	1
Bridgetown	10
Buenos Aires	13
Calgary	1
Cali	100
Canberra	1
Caracas	1
Ciudad Juarez	21
Curacao	1
Dacca	11
Damacus	29
Dublin	4
Dusseldorf	3
Florence	3
Frankfurt	1
Freetown	5
Genoa	5
Georgetown	2
Guatemala	3
Guayaquil	1
Hamburg	10
Helsinki	1
Hong Kong	5
Istanbul	1
Jerusalem	1
Johannesburg	1
Kaduna	62
Kampala	1
Kingston	16
Krakow	1
Kuala Lumpur	1
Lagos	2
Lahore	2
La Paz	7
Lima	22
London	40
Managua	35
Manila	14
Maracaibo	3
Marseille	3
Matamoros	18
Mazatlan	13
Merida	7
Mexico City	31
Milan	2
Monrovia	12
Montreal	10
Monterrey	39
Montevideo	2
Munich	3
Naha	1
Naples	7
Nassau	15
New Delhi	2
Niamey	1
Nuevo Laredo	1
Osaka Kobe	5
Oslo	6
Ottawa	1
Palermo	32
Panama	15
Paris	7
Perth	1
Port au Prince	80
Port of Spain	10
Poznan	10
Quito	5
Rome	3
Rotterdam	2
St. Johns	69
San Salvador	5
Santiago	10
Santo Domingo	15
Sao Paulo	3
Seoul	9
Stockholm	6
Surabaya	3
Sydney	1
Taipei	8
Tegucigalpa	8
Tel Aviv	21
Tijuana	12
Tokyo	10
Toronto	38
Trieste	1
Vancouver	2
Warsaw	5
Wellington	3
Zagreb	1
Zurich	5

All other posts reported NO 212(a)(19) refusals for fiscal year 1981.

Mr. **Weiland**. What are your half dozen most difficult posts overseas?

Mr **Asencio**. I don't want you to get me in trouble on a foreign relations basis. There are a number of societies. We have problems, for instance, in the Philippines, in Korea, my former post in Colombia presents some problems, the Dominican Republic, there are a number of places in Asia that are problems.

The nonproblematic area generally involves around Europe and a couple of the countries in Latin America.

Mr. **Weiland**. In those problem areas, does Mr. Garrett's office staff them more heavily in order to try to deal with the fraud problem?

Mr. **Garrett**. Basically we have no office staff in those posts. We have 180 security officers overseas. Each of those security officers has other posts of service besides the posts to which they are accredited. They in turn each have at least one chief local investigator. He may have one or two on his staff. What we are trying to do and trying to focus on is at the headquarters level, is to provide a specialized group of investigators who can be sent to those posts where there are difficulties, where there is assistance needed, where there are involved investigations to be done because the security officers overseas have many other functions besides that type of work.

Mr. **Asencio**. Let me also add that, in those cases where we have problems, we have fraud officers specialized in the frauds of that particular area or country who are full-time officers. In those cases where the problem is of a lesser degree, this could be a part-time position. But in some of the posts, we could have actually a couple of officers devoted specifically to the question of fraud.

They would probably enter into the picture at an earlier stage than Mr. Garrett's people, who would essentially assist us if it were necessary, or if there was a question of malfeasance.

[At this point Senator Cohen withdrew from the hearing room.]

Mr. **Weiland**. How often do questions of malfeasance arise by your own employees?

Mr. **Garrett**. I don't have information as to the number of allegations that have been made. I have information in terms of number cases we have investigated.

Mr. **Weiland**. And you have prosecuted one in the last year?

Mr. **Garrett**. One.

Mr. **Weiland**. Can you tell us how many Foreign Service officers have ever been convicted of a visa fraud offense?

Mr. **Garrett**. I don't have that information. We can get it for you.

Mr. **Weiland**. It is less than half a dozen, probably.

Mr. **Garrett**. I would be a very small number.

Mr. **Weiland**. In history?

Mr. **Garrett**. In the history it would be a small number. Most visa malfeasance involves Foreign Service nationals employees and in most cases, when we say there are visas being purchased, being sold at the consular post, generally after an investigation it turns out that it is a middleman, someone who is providing services to the applicant at exhorbitant rates.

In that type of allegation, he—the applicant—receives the viewpoint and comments from the middleman that you have to purchase the visa if you go to that consular post. But there have been very few American officers involved in visa malfeasance.

Chairman ROTH. What action do you take with a local national?

Mr. GARRETT. With a local national, it is discharge with cause. In some cases, the host government may wish to take action. It is very difficult, almost impossible to extradite those people back to the United States and prosecute them under Federal law here.

Mr. WEILAND. Of the people just in the past year—the foreign nationals you have fired for cause—have you been successful in getting the host government to prosecute any of them?

Mr. GARRETT. No, we haven't, except in Korea.

Mr. WEILAND. And you would agree, would you not, with respect to this question of malfeasance by U.S. employees that the investigative obstacles are just enormous? You are talking about, for example, Haiti, the Philippines, or Asia, in terms of your own office, in terms of investigating an allegation of that sort?

Mr. GARRETT. Visa malfeasance allegations against consular posts? It is very difficult because to give you a typical example, we even tried on several occasions to run someone through the system, to try to purchase a visa and it invariably involves a middleman or a broker. One successful way is to determine whether or not there is an alien in country who is known by the post as being available for a visa and try to run him through the system. If that is successful, then there is circumstantial evidence that the consular post is selling visas. It is a difficult type of investigation.

Chairman ROTH. We may have some questions we will want to submit in writing.

Mr. ASENCIO. Certainly, Mr. Chairman, we will be happy to answer your questions.

[The questions and answers thereto which was subsequently received by the subcommittee follow:]

U.S. DEPARTMENT OF STATE,
Washington, D.C., October 22, 1982.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Senate Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate.

DEAR MR. CHAIRMAN: In your October 13 letter to Mr. Marvin L. Garrett, Jr., Deputy Assistant Secretary for Security, you set forth additional questions which were not asked during the September 23rd hearings because of time restraints. As requested, enclosed are responses to those additional questions.

With cordial regards,
Sincerely,

POWELL A. MOORE,
Assistant Secretary for Congressional Relations.

Enclosure: Additional Questions with Responses.

OFFICE OF SECURITY MANPOWER

Question. Why is such a large percentage of agents assigned to Headquarters rather their (than) domestic and foreign field office assignments?

Answer. The Headquarters staffing level is misleading in that many officers carried on the Headquarters staffing pattern are operational. For example, 53 officers carried on the Headquarters staffing pattern performing protective security functions. Thirty-five (35) are assigned to the Secretary's detail, 9 to Ambassador Kirkpatrick's detail in New York, and 9 are associated with foreign dignitary protection. While the remainder of the Headquarters staff perform more traditional support functions, the scope of the work is very broad (e.g., a Security Engineering Division, Threat Analysis Group, a 24-hour Command Center, a Freedom of Information and Privacy Act staff, etc.).

Question. What percent of total agent manhours are spent on passport and visa fraud investigations?

Answer. As the result of our recent reorganization of our Investigations Division and the higher emphasis on criminal investigations, in particular passport fraud, there has been a very significant increase in the manhours devoted to this work. Since this has been a recent occurrence, we have insufficient data at this time to provide an accurate figure. It can be noted, however, at the Headquarters level there are eight officer positions dedicated solely to passport and visa fraud. In addition, there are nine agent positions which will be dedicated to conducting general fraud and consular malfeasance investigations. It is estimated that currently, approximately 25 percent of the field office agent manhours are spent on passport and visa fraud investigations, and that the figure will increase significantly during the next year.

Question. How many agents have attended the criminal investigator training course at Clynco?

Answer. Four agents have attended this course. In the future all Special Agents entering on duty with the Office of Security will receive their basic training course at Glynco, which will include the block of training on criminal investigations.

Question. For those agents who have not attended this course, how many hours of training has been provided in criminal investigations? Please describe what training has been provided to these agents and describe the percentage of training that is devoted to background investigations, security and criminal investigations?

Answer. As the result of the 15-week basic agent training course operated heretofore by the Education and Training Staff of the Office of Security, every agent has received a minimum of 79 hours of training in investigations. Of this amount 58 hours have been on personnel investigations (73 percent) and 21 hours on criminal investigations (27 percent). In addition, 12 agents have, during the last year, attended the White Collar Crime course at Glynco and 10 more are scheduled to attend the course during the next year. Many agents have been provided with specialized training organized by the Education and Training Staff, such as a one-week forensic course presented by the FBI.

AUTHORITY OF THE OFFICE OF SECURITY

Question. Passport fraud which is discovered by the Bureau of Consular Affairs is referred by the Bureau to some law enforcement agencies. These referrals are not coordinated with the Office of Security. Do you believe that the Office of Security should have the responsibility for making and tracking these criminal referrals?

Answer. There is merit to the proposal that the Office of Security be given responsibility for making and tracking all cases referred to other law enforcement agencies. This would provide the Office of Security with the necessary data to conduct meaningful analysis of the overall caseload to identify trends, modus operandi, rings, etc. Discussions concerning this proposal are being held between the Office of Security and the Bureau of Consular Affairs.

Question. Do you believe that the agents of the Office of Security should have arrest and weapons authority? If legislation is necessary to accomplish this goal, has any legislation been proposed by the State Department?

Answer. Yes, it is beliebed that Office of Security agents need arrest and weapons authority. The Department recently sent to the Office of Management and Budget a request that it be authorized to seek legislative authority. As you are probably aware, Office of Security agents already have arrest and weapons authority in connection with their protective security functions.

Question. Do you feel that the Office of Security has sufficient independence and resources to investigate passport and visa fraud and malfeasance?

Answer. Yes it is believed that the Office of Security has sufficient independence in all of its investigative efforts. In regards to resources, the Office of Security has received $2.8 million in funding to be used in referring routine personnel investigations to the Office of Personnel Management. This reduction in workload is estimated to save annually approximately 32 work-years which is being diverted to criminal investigations. While currently it appears that the Office of Security has sufficient resources for conducting these investigations, it is possible that the passport fraud workload could increase more than anticipated, thus requiring more resources.

DEPARTMENT OF STATE,
ASSISTANT SECRETARY FOR CONSULAR AFFAIRS,
Washington, October 26, 1982.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Permanent Subcommittee on Investigations, Committee on Governmental Afiairs, U.S. Senate.

DEAR MR. CHAIRMAN: This is in response to your letter of October 13 requesting replies to certain questions about Department policies relating to passport and visa operations.

1. *Investigations of passport fraud.*

(a) *Your question*: Our examination showed that the State Department has referred less than 50 passport fraud cases to the U.S. Customs Service. Why have so few cases been referred?

Answer: Between 1979 and May 5, 1982, 105 cases of suspected passport fraud were referred to the U.S. Customs Service. Approximately 50 additional cases have been referred since May 5.

At a meeting with Customs on February 11, 1982, their representatives requested that the Department not refer previously pending cases to Cutsoms, preferring instead that Customs field offices obtain "fresh" (i.e., day of detection) cases directly from State passport agencies around the country. This procedure has proven successful and will be enhanced by the presence of new full time State fraud coordinators at the passport agencies. Customs use of new cases has already enhanced the Department's ability to obtain a number of successful prosecutions, e.g. three cases went to trail in the last four months.

(b) *Your question:* When will the State Department respond to the U.S. Secret Service's offer to assume a greater role in the investigation of passport fraud?

Answer: Informal meetings have been held with the Secret Service. A formal agreement has not been concluded because, subsequent to the meetings, the Department's Office of Security agreed to investigate all cases of suspected passport fraud referred to it. This new policy has made the need for supplementary Secret Service assistance questionable at this time.

2. *Misrepresentations in applications for visas*

All four of the points raised in your letter in connection with misrepresentations for visas deal with situations where a misrepresentation does not automatically lead to a finding of ineligibility under section 212(a)(19). On a superficial level, the Foreign Affairs Manual instructions on these points might appear to diminish the applicability of this provision of the law. The Department believes, however, that these instructions are consistent with the requirement under Section 212(a)(19) that willful misrepresentation be *material* in order for ineligibility under that section to result. A misrepresentation in a visa application cannot be material if it lacks the reasonable capacity to lead a consular officer adjudicating a visa application to issue an applicant a visa when the alien either does not qualify for the visa classification sought or else is ineligible for visa issuance under Section 212(a). The four aspects of the Foreign Affairs Manual which your letter addresses deal with situations where an alien's misrepresentation does not have the reasonable capacity so to mislead a consular officer.

As your letter points out, the Department's Foreign Affairs Manual does provide that a timely retraction will serve to expunge a misrepresentation. However, the instruction strictly limits the application of this principle to retractions which take place at the first opportunity and in the course of the same proceedings in which the misrepresentation was made, i.e., during the same interview. A misrepresentation which is immediately followed by a retraction does not have the capacity to mislead and is thus not material. It is for this reason that such a misrepresentation is not held to make an alien ineligible under Section 212(a)(19). Of course, if the true facts disclosed in the retraction reveal one or more grounds of ineligibility, the visa will be denied for that reason. In view of the very limited applicability of this interpretation, we believe it is not inconsistent with the views expressed by Assistant Attorney General McConnell in his letter of September 21. Most importantly, in considering the timely retraction principle, it is worthy of note that timely retractions are rarely encountered in visa operations.

Your letter also refers to the Foreign Affairs Manual instruction which holds that a misrepresentation which can be disproven by checking with State Department references does not cut off a line of inquiry and is therefore not material.

The application of this provision is much more limited than it would appear at first glance. This provision is inapplicable in cases where the misrepresentation relates to a separate statutory ground of ineligibility under a subsection of Section 212(a), such as convictions for crimes involving moral turpitude, drug trafficking, prostitution, and previous deportation from the U.S. Even if the post where an alien was applying for a visa had information which reflected his Section 212(a) ineligibility, his willful misrepresentation of facts pertaining to his ineligibility would still render him ineligible under Section 212(a)(19). Misrepresentations concealing other facts that can be disproven by checking internal State Department information sources which are readily accessible at the post of application do not result in findings of 212(a)(19) ineligibility. For example, an alien may lack the strong ties to a place of foreign residence that are necessary to qualify for a tourist visa. If he misrepresents these ties, but the post where he is applying is aware of the true facts on the basis of information readily available to it, then the misrepresentation would not "cut off a line of inquiry" and therefore would not be considered material.

The issue of whether a misrepresentation of identity is material *per se* was addressed by the Attorney General's 1961 opinion in the *Matter of S– and B–C*, 9 I.&N. 436. In that opinion the Attorney General held that a misrepresentation of identity is to be considered on the same basis as other misrepresentations; it will be material only if the alien is excludable on the true facts or if the misrepresentation tends to cut off a relevant line of inquiry which might have led to a proper finding of ineligibility. According to the principle established in the Attorney General's opinion, an alien who misrepresented his identity in applying for a visa would not be found ineligible if he could show that he qualified in his true identity to receive the visa for which he had applied. As is provided in Section 103(a) of the Immigration and Nationality Act, the Attorney General's opinion as to matters of law is controlling in the administration of the Act.

The last issue raised in your letter has to do with the materiality of misrepresentations concerning previous visa denials. Such misrepresentations are held by the Foreign Affairs Manual not to be material in themselves. However, the Manual does provide that if the misrepresentation of the previous denial conceals objective information not known to the consular officer adjudicating a new visa application, then it may be material.

Any finding that an alien failed to qualify as a nonimmigrant is necessarily limited to the facts and circumstances as of the date of the application. This finding would not be binding on a consular officer confronted by a different set of circumstances at the time of future application because entitlement to nonimmigrant classification must be evaluated *de novo* at the time of each application. If, on the other hand, a previous application was refused under one or more paragraphs of Section 212(a), a concealment of the previous application and refusal would result in a finding of ineligibility under Section 212(a)(19).

I hope that the above information will serve to clarify the policies of the Department of State in the areas mentioned in your October 13 letter. Please do not hesitate to contact me again for further information on any point which requires more explanation.

Sincerely,

DIEGO ASCENIO.

Chairman **ROTH**. Thank you very much, gentlemen.

At this time we would like to call Mr. Robert Brown, the Inspector General for the Department of State. Raise your right hand.

Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. **BROWN**. I do.

TESTIMONY OF ROBERT BROWN, INSPECTOR GENERAL, DEPARTMENT OF STATE

Chairman ROTH. Mr. Brown, please be seated. We would ask you, as we have in the prior cases, to summarize your testimony.

Mr. BROWN. Thank you, Mr. Chairman for the opportunity to participate in this hearing which is a subject of great concern to us all. I have a prepared statement submitted already which I would like to have inserted into the record.[1]

Chairman ROTH. Without objection.

Mr. BROWN. In that statement I have addressed the questions which you have posed in your letter of invitation to appear before you here today.

I would like to add to my prepared statement that I am personally committed to carrying out as effectively as possible the President's program to prevent and detect waste, fraud, and abuse in government. To this end, one of my first priorities after assuming office was to establish the position of Assistant Inspector General for Investigations which is vested with the responsibility for developing and conducting an effective program to investigate allegations of malfeasance by Department employees.

From the start, I have given this program my closest personal attention and, working with my staff and the Office of Security, have striven to improve its effectiveness. We have now had just over 1 year's experience with the present arrangement for investigating such cases and based on that, I am satisfied with the basic nature of the arrangement that we have worked out with the Office of Security.

At the same time, I believe that there is always room for improvement. This is why my office and the Office of Security have been conducting discussions over the past few months about ways to make these investigations more responsive to the needs of the Office of the Inspector General and the requirements of the law. Mr. Garrett has outlined for the subcommittee this morning some of the steps he is taking to that end. I believe that as we continue to come to deal with this matter, we may make other adjustments in the future. I just wanted to mention these discussions and the positive outcome that has resulted from them to indicate the seriousness with which we approach these responsibilities and our determination to be as effective as we can in addressing them.

I am prepared to answer any questions the subcommittee may have.

Chairman ROTH. Mr. Brown, has your office implemented an investigative program to detect and eliminate employee participation in visa fraud?

Mr. BROWN. Malfeasance, yes. Regarding visa fraud, we do not have a program, per se, to address that question except that as the Inspector General of the Department of State and the Foreign Service, I have the responsibility to be assured that the laws and regulations of the United States are effectively carried out. This means that we inspect and have the legal obligation to inspect at a minimum every post and every operating unit of the Department of State within a 5-year period.

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[1] See p. 267 for the prepared statement of Robert Brown.

When we inspect an embassy or consulate, we pay particular attention to the consular operation as to how well it is carrying out its functions and indeed what fraud prevention methods are enforced, how well they are being applied, and we test the metal of the institution. In addition to these 240 foreign posts overseas I have the responsibility and have concluded an audit of the Bureau of Consular Affairs at the end of 1980 which, again, looked at how effectively it was carrying out that program.

In addition, I am charged with the waste, fraud, and mismanagement committee of the Department made up of Deputy Assistant Secretaries. I meet monthly with the committee and one of the subjects that does come up, among other things, is consular fraud.

However, in terms of implementation of doing it myself or at least tracking it myself, my job has been to be assured that the employees of the U.S. Government, be they American or foreign, are not violating our regulations. Fraud, other than malfeasance, has been left to the Bureau of Consular Affairs to assure that the regulations and rules are followed, to assure that such fraud is prevented and, where it takes place, that the Office of Security pursue it in a legal and investigative manner.

Chairman ROTH. In the past 5 years, exactly how many visa malfeasance cases have been made against State Department employees?

Mr. BROWN. In the last 5 years? I am sorry, sir, I did not come prepared with this information. I will be glad to look at it, for the record.

Chairman ROTH. How many in the last year?

Mr. BROWN. In the last year, during the 12 months ending September 1, 1982, that is approximately 1 year after concluding the support agreement with the Office of Security we have referred 61 cases of alleged passport or visa malfeasance to the Office of Security for investigation. At the time we entered into the agreement, there were 41 cases pending. From the total of 102 cases, 48 are currently pending, three are with the Justice system and 54 have been closed with the following results: Thirty-eight allegations were not substantiated and 16 were substantiated with the result that one American was convicted and 16 Foreign Service nationals were fired.

Chairman ROTH. Do you believe that Office of Security agents who investigate employee involvement with visa fraud on your behalf, have sufficient independence and resources to fully develop investigative leads? Do they need full law enforcement powers such as weapons and arrest authority?

Mr. BROWN. I support the proposal that they be permitted to carry weapons, yes sir.

Chairman ROTH. In your statement, you point out that it is not your responsibility to investigate passport and visa fraud unless such matters are investigated by the Office of Consular Affairs. I am concerned because such matters should be investigated by trained law enforcement personnel officials. Why doesn't your office have a greater role in these matters? Is it a question of resources or is it jurisdictional restrictions placed on your office?

Mr. **Brown**. Sir, the Foreign Service Act has been in effect since mid-February 1980. The Inspector Generals Office of the State Department is a new boy in a sense, in respect of that legislation. I have on my staff 50 inspectors and auditors to review activities worldwide, and, as I mentioned earlier, of every operating unit of the Department. I won't get out the violin, but that is not a small charter. The issue was how could I effectively carry out the responsibilities which I thought were incumbent upon me, to carry out and be cost effective to the taxpayers of this country. There is a large security operation in the Department of State and that has been the reason why I am working with the agreement I have with the Office of Security, to assure that they will carry out the responsibility I think they should carry out in an effective and efficient manner.

With respect to the reorganization that was mentioned today, I would like to believe it came about, at least in part, because I have reflected that I felt the Office of Security should be even more responsive to the role and functions that I feel are incumbent upon me and by the Office in the areas in which you are interested.

In this new system, reorganizing the security office, they are going to have more trained investigators, they are going to send them to school where they learn more about the legalities of investigations and how to approach the issues they have to deal with in the areas of fraud and malfeasance. I will test the metal yet again. If and when it does not work, then I will be the first to declare it. Then I will be asking to enlarge my staff to do the job that has to be done, but we must bear in mind they have 70 security offices overseas, and, if my memory is correct, 17 security offices around the United States.

For me to duplicate in some measure, some significant measure, this kind of an operation even though they also have other things to do is not cost effective but duplicative if they can do the job effectively.

Chairman **Roth**. We have a vote on the floor. I do have some additional questions but I will submit those to you in writing. I appreciate you being here very much, Mr. Brown.

Mr. Weiland.

Mr. **Weiland**. Before we adjourn, I would like to offer three exhibits for the record. Five is a group exhibit having to do with the question of the Attorney General's opinion which was alluded to earlier. Exhibit 6 is a synopsis of the identification provisions of the Simpson-Mazzoli immigration bill and exhibit 7 is the Mitre report that you referred to while the first witness was testifying.

Chairman **Roth**. Those are not going to be reprinted, are they?

Mr. **Weiland**. Certainly not the Mitre report. The others will be printed.

[The documents referred to were marked "Exhibits Nos. 5, 6, and 7," for reference; exhibit No. 7 is retained in the files of the subcommittee; exhibits 5 and 6 follow:]

EXHIBIT NO. 5

WILLIAM V. ROTH, JR., DEL., CHAIRMAN

CHARLES H. PERCY, ILL.
TED STEVENS, ALASKA
CHARLES MC C. MATHIAS, JR., MD.
JOHN C. DANFORTH, MO.
WILLIAM S. COHEN, MAINE
DAVID DURENBERGER, MINN.
MACK MATTINGLY, GA.
WARREN B. RUDMAN, N.H.

THOMAS F. EAGLETON, MO.
HENRY M. JACKSON, WASH.
LAWTON CHILES, FLA.
SAM NUNN, GA.
JOHN GLENN, OHIO
JIM SASSER, TENN.
DAVID PRYOR, ARK.
CARL LEVIN, MICH.

JOAN M. MC ENTEE, STAFF DIRECTOR

United States Senate

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GOVERNMENTAL AFFAIRS
SENATE PERMANENT SUBCOMMITTEE
ON INVESTIGATIONS
WASHINGTON, D.C. 20510

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MICHAEL C. EBERHARDT
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ELEANORE J. HILL
CHIEF COUNSEL TO THE MINORITY

July 2, 1982

The Honorable William French Smith
Attorney General
U. S. Department of Justice
Washington, D.C. 20530

Dear Mr. Attorney General:

On June 15 and 16, 1982 the Permanent Subcommittee on Investigations held hearings on the criminal use of false identity documents in federal benefit programs. These hearings showed the ease with which individuals can obtain false passports, visas, INS documents and social security cards and then use these documents to illegally enter the United States and improperly obtain income tax refunds, social security and educational benefits. Our hearings indicated a persistent laxity towards document security concerns in those agencies which are responsible for the issuance of federal identity documents. A similar laxity also seems to prevail in federal benefit programs where officials accept federal identity documents without an adequate concern for their legitimacy. A copy of our staff statement is enclosed for your information.

I am writing to inform you of the Subcommittee's concerns and to seek your assistance in solving some of the problems relating to the issuance and use of visas and INS documents. Our review of the document issuance procedures of the State Department and INS clearly indicates that more must be done by these agencies to improve the security of their documents and to improve the procedure by which the documents are issued.

I believe that five areas identified at the hearing are of particular concern to the Department of Justice. I, therefore, request your assistance in addressing these areas:

1. INS Form I-94 This form is used as an entrance and exit control document for foreign visitors. It is also utilized as an interim identity document for permanent resident aliens awaiting the receipt of their formal identification card. The document is also issued to refugees. Our hearings determined that this document is exceedingly easy to copy. While it was never intended by INS to be an identity document, it is used as an interim identity document by INS and it is accepted by various federal agencies as proof of identity for certain federal benefits.

    a. What, if any, action is being taken by INS to make the I-94 a more secure document? If the I-94 is not intended to be an identity document, what secure interim documents can be issued by INS to those who are currently receiving the I-94?

    b. What action is being taken to notify federal benefit agencies as to the weaknesses in the I-94, and to restrict the acceptance of this document?

2. Non-immigrant Visas In our meetings with the Department of State we were informed that many persons present false information to U. S. consular officers in order to obtain non-immigrant visas. In many instances these misrepresentations are detected. Despite the fact that these misrepresentations may be criminal violations of 18 U.S.C. 1001 and 18 U.S.C. §1546, the policy of the Department of State is to allow the individual an opportunity to retract the misrepresentation in a "timely manner." If such a retraction is made, and if the individual is entitled to a visa on the "new" facts, a visa will be issued. The Department of State maintains that this policy is required by the "rule of probability," as set forth in a 1961 Attorney General's Opinion, In Re: Matter of S--and B--C--, 9 I & N Dec. 436.

Our review of this matter has led us to conclude that the Department of State's current interpretation of this decision may be not only unwise but also erroneous for a number of reasons. Such fraudulent misrepresentations may be grounds for a denial of a visa under Sections 212(a) (9) and (19) of the Immigration and Nationality Act (INA). By ignoring these possible crimes, the State Department appears to be thwarting the very purpose of the INA, to exclude fraudulent individuals from entering the United States. Since our hearings and other studies have demonstrated that a person who will seek to enter the United States under false pretenses is also likely to attempt to fraudulently obtain benefits, the visa decision is extremely important.

Furthermore, by allowing a visa applicant to recant a false material statement and represent new information, the State Department itself may be failing to adequately consider the practical realities of the visa issuance process. Most consular officers have less than five minutes to conduct a visa interview. Even assuming that an initial attempt to deceive is detected, there is no likelihood that any subsequent information provided by the visa applicant will be trustworthy. The combination of the time constraints placed upon the consular officers, the State Department's "rule of probability" position, and the lack of adequate investigatory resources clearly results in the strong possibility that a great deal of false material information presented to consular officials will be accepted.

For these reasons, I request that the Department of Justice review the aforementioned Attorney General's opinion to determine if the opinion, as implemented by the Department of State, adequately addresses the issue of false misrepresentations by aliens seeking to enter the United States.

3. Records of Deportation The Subcommittee learned that the identities of deported aliens are not always posted in INS's MIRAC system, nor is the Department of State routinely informed of such actions. This system is the primary INS data base and is used by INS inspectors at points of entry to screen arriving passengers to the United States. The Subcommittee staff identified an instance where an alien violated the terms of his visa, defrauded various federal benefit programs and was deported from the United States. No efforts were made to place the identity of this individual in the MIRAC system, despite the fact that this individual had re-entered the United States within two weeks of a previous voluntary departure for other visa violations.
    a. What is the the policy of INS regarding the posting of deportations in MIRAC?
    b. What is the policy of INS as to providing notification to the State Department of all deportations?

4. Automation of INS Form I-551 INS officials testified as to problems surrounding the development and implementation of a computerized information retrieval system for the I-551.
    a. When will the present system be fully operational? Please provide details as to the number and location of all terminals on line as of June 15 and the number and location of all terminals which are to be installed.
    b. How much additional funding will be necessary to fully implement the system?
    c. What is the cause for the delay in the implementation of the system to date?
    d. Why has INS incorporated a Optical Character Reader (OCR) feature into the card when there is no current plan to purchase and use such a reader?

5. Arrival Inspections of Non-immigrants Without doubt visa "overstays" are a major problem. INS does not have the information or the ability to identify and locate non-immigrant aliens who have remained in the United States beyond the time period allowed by their visas. As a control over this problem, has any consideration been given to requiring all non-immigrant aliens to display to INS a non-refundable airline ticket at the airport of entry?

Your cooperation in this matter is greatly appreciated. If the Subcommittee staff can provide any further information in this matter, please contact S. Cass Weiland, Chief Counsel, or Howard W. Cox, Staff Counsel, at 224-3721.

Sincerely,

Bill Roth

William V. Roth, Jr.
Chairman

U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General
Washington, D.C. 20530

September 21, 1982

Honorable William V. Roth, Jr.
Chairman
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your letter to the Attorney General dated July 2, 1982, concerning five areas involving document issuance by the Immigration and Naturalization Service and the Department of State. Three of the areas covered in your letter were the subject of an extended briefing with Mr. Cox and Ms. Hainer of your staff on August 2, 1982. Ms. Hainer requested that we reply by letter to the two remaining areas.

Question number 2, "Nonimmigrant Visas." This question concerned persons presenting false information to United States Consular Officers in order to obtain nonimmigrant visas. Your letter states that the policy of the Department of State is to allow the individual an opportunity to retract the misinformation, and that this policy is regulated by the "rule of probability" as set forth by the Attorney General.

A restatement of the situation is in order in this case. Although your letter suggests that both paragraphs (9) and (19) of Subsection 212(a) of the Immigration and Naturalization Act relate to visa applications, it is our interpretation of the Act that paragraph (19) is the governing provision. That paragraph is triggered by fraud or misrepresentation of a material fact.

Pursuant to that statute, the question involved in misrepresentation is whether or not a statement is material. According to the Attorney General's opinion, in the Matter of S-- and B--C--, 9 I. & N. Dec. 436 at 447 (1961), a misrepresentation is material if either: 1) the alien is excludable on the true facts or 2) misrepresentation tends to shut off a line of inquiry which is relative to the alien's eligibility and which might have resulted in a determination of excludability.

Therefore, the practice is not, and should not be, that any misrepresentation can be corrected. If such a misrepresentation is material, pursuant to the cited opinion, the alien is ineligible to receive a visa under section 212(a)(19).

Question number 3, "Records of Deportation". Your staff asked whether the Department of State was informed when INS deported an individual. At the present time, certain categories of deportable aliens are posted in the Lookout Book. These categories are deportations based upon criminal, moral, or narcotics violations. The Department of State thus has information concerning these categories.

We do not now inform the Department of State on other, so called normal deportations. However, once our deportation docket is computerized there can be linkage with the Department of State on every deportation. The computerization of the deportation docket is now in process and has begun with our San Diego office. This effort will take some time to complete, as you are aware.

I should note that continuous discussions are held with officials of the Department of State in order to expedite the linkage of our computer systems with theirs.

I hope this information is responsive to your questions and the questions raised by your staff. If additional information is needed please do not hesitate to call upon us.

Sincerely,

(Signed) Robert A. McConnell

Robert A. McConnell
Assistant Attorney General
Office of Legislative Affairs

§41.91 (Cont'd)

(a) (Cont'd)

(19) Fraud and misrepresentation.

(i) An alien who seeks to procure, or has sought to procure, or has procured a visa or other documentation for entry into the United States by fraud or by willfully misrepresenting a material fact, regardless of whether such fraud or misrepresentation occurred before or after December 24, 1952, shall be ineligible to receive a visa under the provisions of section 212(a)(19) of the Act: Provided, That the provisions of this subdivision shall not be applicable if the fraud or misrepresentation was committed by an alien at the time he sought entry into a country other than the United States or obtained travel documents as a bona fide refugee and the refugee was in fear of being repatriated to his former homeland if he had disclosed the facts in his case in connection with his application for a visa to enter the United States: Provided further, That the fraud or misrepresentation was not committed by such refugee for the purpose of evading the quota or numerical restrictions of the United States immigration laws, or investigation of the alien's record at the place of his former residence or elsewhere in connection with an application for a visa. (Amended 2-16-73, 38 F.R. 4576)

(ii) Subject to conditions stated in subdivision (i) of this subparagraph, an alien who is found by the consular officer to have made a willful misrepresentation within the meaning of section 10 of the Displaced Persons Act of 1948, as amended, for the purpose of gaining admission into the United States as an eligible displaced person, or to have made a material misrepresentation within the meaning of section 11(e) of the Refugee Relief Act of 1953, as amended, for the purpose of gaining admission into the United States as an alien eligible thereunder, shall be considered ineligible to receive a visa under the provisions of section 212(a)(19) of the Act.

(iii) The commission of fraud or the willful misrepresentation of a material fact in seeking to enter the United States as distinguished from fraud or misrepresentation in connection with the procurement, or attempt to procure, documents for entry, shall not render an alien ineligible to receive a visa under the provisions of section 212(a)(19) of the Act. (6 I. & N. Dec. 149, approved by the Attorney General 9-13-54)

(Amended 7-23-60, 25 F. R. 7017)

RELATED STATUTORY PROVISION

Section 212(a)(19) of the Act reads:

"(19) Any alien who seeks to procure, or has sought to procure, or has procured a visa or other documentation, or seeks to enter the United States, by fraud, or by willfully misrepresenting a material fact;"

NOTES

1. Difference between first and second clauses.

1.1 Section 212(a)(19) is divided into two clauses:

(a) Any alien who seeks to procure, or has sought to procure, or has procured a visa or other documentation by fraud or by willfully misrepresenting a material fact;

(b) Any alien who seeks to enter the United States by fraud or by willfully misrepresenting a material fact.

1.2 If an alien falls within the purview of the first clause of Section 212(a)(19) by obtaining or attempting to obtain a visa or other documentation from an official of the United States Government (see Note 4.3) by means of fraud or willful material misrepresentation, he thereby becomes permanently ineligible to receive any type of visa in the future.

1.3 Since the language of the second clause of Section 212(a)(19) is cast in the present tense only, an alien seeking to enter the United States by means of a fraud or willful misrepresentation not covered by the first clause is ineligible only at the time of the attempted entry and does not become permanently ineligible for a visa in the future.

2. Application of Section 212(a)(19) of the INA.

2.1 Section 212(a)(19) constitutes a ground of ineligibility which was not included in legislation prior to 1952. The inclusion of this provision expresses the concern with which Congress viewed cases of aliens resorting to fraud or willful misrepresentations for the purpose of obtaining visas or otherwise effecting unauthorized entry into the United States. The section is intended to prevent aliens from attempting to secure entry into this country by making false statements and then, when the falsity is discovered, trying out their eligibility as if nothing had happened.

2.2 On the other hand, it must also be emphasized that Section 212(a)(19) was not intended by Congress to be a substitute for the other grounds of ineligibility provided by the INA. It should not be used to accomplish indirectly that which cannot be accomplished directly. The section was not designed to permit the entrapment of aliens whom the consular officer might suspect to be ineligible on some other grounds but where there is insufficient evidence on which to base a specific conclusion of ineligibility. In applying this provision of law, consular officers should keep in mind the other provisions of the Act governing the eligibility or exclusion of certain specifically described classes, such as those disqualified on mental, moral, physical and political grounds. Aliens cannot be refused visas simply because they may not be considered to be particularly desirable individuals as immigrants or nonimmigrants.

2.3 In applying the provisions of Section 212(a)(19), consular officers should keep in mind the severe nature of the penalty the alien incurs: lifetime exclusion, unless a waiver is obtainable. When imposing such a dire penalty, the consular officer should keep in mind the words quoted by the Attorney General in his landmark opinion on this matter. (The Matter of S- and B-C, 9 I & N Dec. 436, at 446.)

> "Shutting off the opportunity to come to the United States actually is a crushing deprivation to many prospective immigrants. Very often it destroys the hopes and aspirations of a lifetime, and it frequently operates not only against the individual immediately but also bears heavily upon his family in and out of the United States."

3. Elements supporting a finding under Section 212(a)(19) of the INA.

3.1 The fact that Congress used the terms "fraud" and "willfully misrepresenting a material fact" in the alternative indicates an intent to set a lower standard than is required in making a finding of what is known in the law as fraud. Nearly all cases brought under Section 212(a)(19) are cases of willful misrepresentation.

3.2 In order to find an alien ineligible to receive a visa under the provisions of Section 212(a)(19), it must be determined that:

(a) there has been a misrepresentation made by the applicant;

(b) the misrepresentation was willfully made, and

(c) the fact misrepresented is material.

4. Interpretation of the term "misrepresentation."

4.1 As used in Section 212(a)(19), a misrepresentation is an assertion or manifestation not in accordance with the facts. Misrepresentations can be made in oral interviews, written applications, or by submitting evidence containing false information.

4.2 In making a finding that a misrepresentation has been made, it is necessary to distinguish between what information was misrepresented and what was merely concealed by the alien's silence. Silence or the failure to volunteer information does not in itself constitute a misrepresentation for the purposes of Section 212(a)(19).

4.3 For a misrepresentation to fall within the purview of Section 212(a)(19), it must have been practiced on an official of the United States Government; generally speaking, a consular officer or an officer of the Immigration and Naturalization Service.

4.4 The misrepresentation must have been made by the alien with respect to his own visa application. Misrepresentations made in connection with some other person's visa application do not fall within the purview of Section 212(a)(19), but may be considered in light of Section 212(a)(31).

4.5 The fact that an alien pursues a visa application through an attorney or travel agent does not serve to insulate the alien from liability for misrepresentations made by such agents if it is established that he was aware of the action being taken in furtherance of his application. This standard also applies in cases where a travel agent has executed a visa application on the alien's behalf by mail.

4.6 A timely retraction will serve to purge a misrepresentation and remove it from further consideration. Whether a retraction is timely depends on the circumstances of the particular case, but in general, it should be made at the first opportunity and in the course of the same proceedings or hearing at which the misrepresentation was made. For this reason, aliens being interviewed should be warned of the penalties of section 212(a)(19).

4.7 In determining whether a misrepresentation has been made, some of the most difficult questions arise from cases involving aliens in the United States who conduct themselves in a manner inconsistent with representations they made to the consular officers concerning their intentions at the time of visa application. These types of cases occur most frequently with respect to aliens who, after having obtained visas as nonimmigrants either (1) apply for adjustment of status to permanent resident or (2) fail to maintain their nonimmigrant status by engaging in employment. The fact that an alien's subsequent actions are other than as stated at the time of visa application does not in itself prove, *ex post facto*, that the alien misrepresented his intent at the time of application. As to those who adjust their status, it should be borne in mind that for a number of valid and lawful reasons an alien may change his plans after obtaining a visa. As to those who fail to maintain status, in order to substantiate a finding under Section 212(a)(19), it must be factually established that a misrepresentation has occurred.

5. Interpretation of the term "willfully."

5.1 The term "willfully" as used in Section 212(a)(19) of the INA is interpreted to mean knowingly and intentionally, as distinguished from accidentally, inadvertently, or in an honest belief that the true facts are otherwise. In order to find the element of willfulness, it must be determined that the alien was fully aware of the nature of the information sought and knowingly, intentionally, and deliberately made an untrue statement.

5.2 An alien who acts on the advice of another is considered to be exercising his own will in accepting or rejecting such advice. It is no defense for an alien to say that he made a misrepresentation because someone else advised him to do so unless it is found that the alien lacked the capacity to formulate his own will.

6. Interpretation of the term "material fact".

6.1 Materiality does not rest on the simple moral premise that an alien has lied, but is measured pragmatically in the context of the individual case as to whether the misrepresentation was of direct and objective significance to the proper resolution of the alien's application for a visa. The Attorney General has declared the definition of materiality with respect to Section 212(a)(19) to be as follows:

> "A misrepresentation made in connection with an application for a visa or other documents, or with entry into the United States, is material if either (1) the alien is excludable on the true facts, or (2) the misrepresentation tends to shut off a line of inquiry which is relevant to the alien's eligibility and which might well have resulted in a proper determination that he be excluded." (Matter of S- and B-C, 9 I & N Dec. 447)

6.2 The first part of the Attorney General's definition of materiality provides for those cases where the true facts of the matter discloses a situation rendering the alien *ipso facto* ineligible for a visa as a matter of law. These are known as independent or objective grounds of ineligibility. Examples of objective grounds of ineligibility might be a Class A medical disqualification or a conviction of a crime involving moral turpitude which is not classifiable as a petty offense.

6.3 The "rule of probability".

The second part of the Attorney General's definition provides for those cases where the alien's misrepresentation tended to shut off a line of inquiry which is relevant to his visa eligibility. These are cases where the exercise of further consular judgment is required. Past judicial and administrative decisions concerning this part have evolved into what has become to be known as the "rule of probability." The rule of probability holds that "a misrepresentation, in order to be considered to be material, must have tended to cut off a line of inquiry into facts which might have resulted in a proper refusal of a visa if the truth had been known." A discussion of the salient elements of the "rule of probability" follows.

6.31 "... tended to cut off a line of inquiry..."

The word "tends" means that the misrepresentation must be of such a nature as to be reasonably expected to foreclose certain information from the consular officer's knowledge. It does not mean that the misrepresentation must have been successful in foreclosing further investigation by the consular officer in order to be deemed material; it means only that the misrepresentation must reasonably have had the capacity of foreclosing further investigation.

(a) If an alien's entitlement to a visa is resolved against him on the known circumstances of the case, a subsequent discovery that alien had misrepresented certain aspects of his case would not be considered material since the misrepresented fact did not tend to lead the consular officer into making an erroneous conclusion. EXAMPLE: An applicant for a nonimmigrant visa falsifies his visa application by stating that he has a well-paying job in order to show that he has a residence abroad, but before the misrepresentation was discovered, the visa was refused because the alien could not, on the known facts, establish his *bona fides* as a nonimmigrant. The subsequent ascertainment of the false statement would not support a finding of materiality because it had no objective significance to the finding that the alien was a *mala fide* nonimmigrant.

(b) If the truth of the fact being misrepresented is available to the consular officer through reference to the post's official sources of information, it cannot be said that the alien's misrepresentation tended to cut off a line of inquiry since the line of inquiry continued to be readily available to the consular officer. This would not be true, however, if the file reflects an independent ground of ineligibility. The official sources of information under discussion here would be the post's own files or the Visa Lookout Book (see Proc. Note 5, 22 CFR 42.130).

6.32 "... into facts..."

(a) Residence and indentity.

At one time the facts of residence and identity were considered to be material *per se*. This is no longer true. Misrepresentations of residence and identity are now considered to be on the same footing as other misrepresentations and will be considered material only if the alien is excludable on the true facts or the misrepresentation tends to cut off a relevant line of inquiry which might have led to a proper finding of ineligibility.

(b) Misrepresentations concerning previous visa applications.

(1) If an alien applying for a nonimmigrant visa misrepresents the fact that he is registered for immigration, the misrepresentation is normally considered to be of material importance because while such registration does not in and of itself render an alien ineligible for a nonimmigrant visa, the intent to immigrate implicit in such registration is on its face inconsistent with nonimmigrant status. In the absence of convincing evidence to the contrary (i.e., an intervening marriage, purchase of a home, or a substantial investment in the local economy) knowledge of such registration would ordinarily support a refusal of a nonimmigrant visa.

(2) A misrepresentation concerning previous immigrant registration on the part of an immigrant visa applicant would not be considered to be material unless the misrepresentation also concealed the existence of an independent ground of ineligibility.

(3) A misrepresentation concerning a previous application for a nonimmigrant visa made on the part of an immigrant visa applicant would not of itself be considered to be material.

(4) A nonimmigrant visa applicant's misrepresenting the fact that he has previously been refused a nonimmigrant visa is not, in itself, a material misrepresentation, even though the consular officer may feel that knowledge of the previous visa refusal might have been useful to him in his own deliberations. In the absence of anything to the contrary, it must be assumed that the previous refusal was predicated on the previous interviewing officer's finding that the alien was not a qualified nonimmigrant at the time of that interview. Such an opinion is necessarily limited to the circumstances of the alien's case at the time of that particular application. Since circumstances change, eligibility must be decided *de novo* on each application. Consequently, a misrepresentation which conceals only the fact of a previous refusal would not be material. Naturally, where the misrepresentation conceals not only the fact of the previous refusal, but also objective information not otherwise known or available to the second consular officer, an entirely different situation would obtain which could possibly form the basis of a finding of ineligibility.

(c) Cases where exception to grounds of exclusion expressed in statute are applicable.

In some types of cases, particularly those falling under Section 212(a)(9) and (28), the disqualifying provisions in the statute provide for certain exceptions to the general rule of exclusion. In such cases, a distinction must be made between the relief benefits which accrue to the alien automatically and relief which is granted after an evaluation of relevant factors pro and con. If the final determination would depend on an exercise of judgement in weighing various intangible factors, the fact in question is material; if the relief applies by the automatic operation of law, the fact is not material for the purposes of Section 212(a)(19).

(1) A finding of ineligibility under Section 212(a)(9) is usually assessed solely on the basis of objective factors, such as the statute involved, the nature of the crime, the punishment imposed, etc. and does not require a weighing of intangible factors. This general rule obtains even in considering cases involving petty offenses and certain single offenses committed while under the age of eighteen because the exculpatory benefits of the law in those cases accrue to the alien automatically. It therefore follows that a misrepresentation concerning a criminal record showing the commission of a single crime involving moral turpitude excusable under either the petty offenses rule or the provisions for single offenses under eighteen is not considered to be material. On the other hand, certain intangible factors must be weighed in order to determine if an alien is excused from the provisions of Section 212(a)(9) as one convicted of a political offense; a misrepresentation about a criminal record showing this kind of conviction is therefore material *per se*.

(2) A determination of whether an alien's membership was "involuntary" within the meaning of Section 212(a)(28)(I) calls for the exercise of judgement in weighing the intangible factors. A misrepresentation concerning this kind of membership in the Communist Party is considered to be material *per se* because it deprives the consular officer of the opportunity of making an inquiry into important intangible factors.

6.33 "... which might have resulted ..."

In order to sustain a finding of materiality, it must be shown that the information foreclosed by the misrepresentation was of basic significance to the alien's eligibility for a visa. The information concealed by the misrepresentation must, when balanced against all the other information of record, have been controlling or crucial to a final decision of the alien's eligibility to receive a visa. EXAMPLE: If an alien were trying to establish his ties abroad by submitting false evidence of particular employment in an effort to establish his *bona fides* as a nonimmigrant and it appeared that the alien had other ties meriting consideration, the misrepresentation would not be considered to be material unless the consular officer could state categorically that had he known the true state of affairs, no visa could properly have been issued.

6.34 "... in a proper refusal if the truth had been known."

(a) In most cases, in order for a fact to be considered material, the truth of the matter must lead to a proper finding of ineligibility. With the exception of the types of cases discussed in Note 6.32(c) above, if the true facts support a finding that the alien is in fact eligible for a visa, the misrepresented fact is not material.

6. (6.34(a) cont'd)

(1) If an alien were to make a misrepresentation to establish an advantageous immigrant visa status and it were discovered that the alien was, in truth, entitled to another equally advantageous status, the misrepresentation would not be considered to be material. EXAMPLE: If the son or daughter of an American citizen were to misrepresent his marital status as being unmarried for the purpose of qualifying for first preference status and the truth of the matter was that he was married and thus qualified for only fourth preference consideration but the fourth preference was currently available for his state of chargeability, the misrepresentation would not be considered material. If, however, his state's fourth preference were to have a waiting period, the alien would then be found to have sought an unwarranted advantage by means of a willful misrepresentation, and the misrepresentation would, therefore, be material.

(2) If an alien were to make a misrepresentation in order to enhance or "puff up" his qualifications for a visa, but the true facts of the matter alone were sufficient to establish his qualifications, the misrepresentation would not be considered to be material. EXAMPLE: If an alien were to misrepresent his employment prospects in the United States as a means of establishing his qualifications for a visa under the provisions of Section 212(a)(15), and it were discovered that, in truth, the alien had other, comparable employment or other satisfactory prospects, the misrepresentation would not be considered to be material.

(b) Once it has been established that a misrepresentation was made in securing a visa, the burden is on the person making the misrepresentation to establish that under the true facts he is eligible or that had the consular officer known the truth, a proper refusal of a visa could not have been made. The consular officer should, of course, be receptive to any further evidence the alien may put forth in his own behalf in order to ensure that a proper finding has been made. To quote further from the Attorney General's opinion:

> "The law recognizes numerous situations in which one who, by his intentional and wrongful act, has prevented or restricted an inquiry into relevant facts, bears the burden of establishing the true facts and the risk that any uncertainties resulting from his own obstruction of the inquiry may be resolved against him." (9 I & N Dec. 449)

6.4 Cases involving the "rule of probability" to be submitted for advisory opinions.

In view of the judicial and administrative uncertainties surrounding the rule of probability and in order to achieve uniformity in the application of the rule throughout the world, all cases falling under the rule of probability in which the consular officer decides against the interests of the applicant must be submitted to the Department for an advisory opinion. Although consular officers are invited to submit any difficult cases, no advisory opinion is required in cases decided in the applicant's favor. A request for an advisory opinion should be made by an operations memorandum captioned: VISAS: ADVISORY OPINIONS: OTHER. The request should include: (1) an explanation of the nature of the misrepresentation showing what facts were misrepresented and, if the issue is in question, evidence showing that the misrepresentation was willfully made; (2) the alien's explanation, if available, as to why he made the misrepresentation; and (3) the consular officer's statement concerning the materiality of the misrepresentation with a clear expression of the consular officer's finding of whether a visa would have been issued if the true facts of the matter had been known.

7. "Other documentation".

The "other documentation" mentioned in the text of Section 212(a)(19) refers, in addition to visas, to documents required at the time of an alien's application for admission into the United States. This includes reentry permits, border crossing identification cards, U.S. Coast Guard identity cards, and American passports. Such documents as applications for parole into the United States or extensions of stay are not considered to be entry documents coming within the purview of Section 212(a)(19). Other types of documents, such as Forms I-20, petitions, and labor certification forms are documents in support of a visa application and must be judged in the light of their effect on a visa application; they are not themselves "other documentation" within the meaning of Section 212(a)(19). As stated in Note 4.3 above, in order for a misrepresentation to be considered within the purview of this section, the misrepresentation must have been made to an official of the United States Government; therefore, counterfeit documents or documents obtained by fraud or willful misrepresentation practiced on foreign government officials or other individuals are considered to fall only within the purview of the second part of Section 212(a)(19).

8. Application of the benefits of Section 212(i) of the Act.

The procedure set forth in Note 11 to 22 CFR 42.91(a)(9) applies to aliens who have been found ineligible under Section 212(a)(19) and who are applying for relief under Section 212(i).

(All notes to this section were amended, revised, renumbered or added 10/9/72)

Administrative Decisions Under Immigration & Nationality Laws

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UNITED STATES DEPARTMENT OF JUSTICE

THE ATTORNEY GENERAL
Robert F. Kennedy

CHAIRMAN, BOARD OF IMMIGRATION APPEALS
Thomas G. Finucane

COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE
Raymond F. Farrell

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VOLUME 9

July 1960 to July 1962

Matter of S— and B—C—

In EXCLUSION and DEPORTATION Proceedings

A-11460920
A-10633389

Decisions by Board June 2, 1960

Decided by the Attorney General October 2, 1961

Misrepresentation—Section 212(a)(19), 1952 act—Criteria for determining materiality.

(1) A misrepresentation under section 212(a)(19) of the Act is material if either (A) the alien is excludable on the true facts, or (B) the misrepresentation tends to shut off a line of inquiry which is relevant to the alien's eligibility and which might well have resulted in a proper determination that he be excluded.

(2) The same test for determining materiality is applicable to misrepresentations involving identity, which are no longer to be accorded a special status.

(3) Where it is shown that the alien's misrepresentation choked off a relevant line of inquiry which might have resulted in a proper determination of excludability, the alien has the burden of establishing the true facts and bears the risk that uncertainties resulting from his own obstruction of the inquiry may be resolved against him.

EXCLUDABLE: Act of 1952—Section 212(a)(19) [8 U.S.C. 1182(a)(19)]—Visa (S—) procured by fraud.
Act of 1952—Section 212(a)(28)(I)(i) [8 U.S.C. 1182(a)(28)(I)(i)]—Member of Communist Party of foreign (S—) country.

DEPORTABLE: Act of 1952—Section 241(a)(1) [8 U.S.C. 1251(a)(1)]—Excludable at time of entry as alien who has procured (B—C—) a visa or other documentation by fraud or misrepresentation.

BEFORE THE BOARD

(June 2, 1960)

In re: *Matter of S—*

DISCUSSION: The special inquiry officer ruled that the applicant is admissible to the United States. The District Director, Buffalo District, believes that the applicant is inadmissible on the first ground stated above and has filed this appeal. It will be dismissed.

The applicant, a resident of Canada, a [illegible]-year-old male, a native of Yugoslavia, last a citizen of Hungary, now stateless, seeks entry as a visitor. He admits that he was a member of the Communist Party of Hungary from December 1947 to October 1956, but claims that he was not a voluntary member. He did not reveal his membership to the consul when he applied for the nonimmigrant visa which he now has.

The issue is whether the concealment of membership was material.

The special inquiry officer found that the membership was involuntary; he, therefore, held that it did not constitute a ground of inadmissibility. He found that the concealment of membership had been willful, but ruled that the concealment did not constitute a bar to entry because it was not material (it had not hidden a ground of inadmissibility). The District Director agrees that membership is involuntary but has filed this appeal in the belief that the concealment is material, since, in his opinion, the record establishes that the consul would have refused to issue a visa had he known of the membership.[1]

The applicant's uncontradicted explanations of the manner in which he became a member of the Communist Party follow: In 1947, when he was about 17 years of age, he was attending school in Hungary. His parents had been taken to Germany as forced laborers and he was alone. The fact that his parents were in the West put him in a class which was regarded with suspicion. He was receiving a government allowance while attending school (p. 2,

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[1] The District Director also contended that the special inquiry officer was without jurisdiction to determine the voluntariness of the membership until a United States counsel first ruled on the issue. This contention and counsel's argument in answer to it need not be discussed because the Service has abandoned this position (*Matter of V—*, 8—554; *Matter of P—*, 8—302). Review of this case had been held in abeyance pending ruling on the jurisdictional issue.

At oral argument, the Service representative, using evidence that is not in the record, and contrary to the position taken by the District Director in filing the appeal, contended that the applicant's membership was voluntary. This issue is not properly before us. When an applicant for admission is ordered admitted and the district director takes an appeal, the district director notifies the applicant in writing of the grounds of the appeal and the applicant is allowed five days to make his representations (8 CFR 236.5(c); District Director's letter of July 10, 1959). The District Director conceded that the membership was involuntary; his moving papers took no issue with the special inquiry officer's finding that membership was involuntary. There is an orderly procedure prescribed by regulation for bringing issues before the Board. These procedures provide due process for the alien. They should be complied with. (Moreover, it is improper on appeal to take administrative notice of debatable matters adverse to an alien. The decision on appeal taken from an order authorizing an applicant's admission must "be rendered solely upon the evidence adduced before the special inquiry officer" (section 236(b), Immigration and Nationality Act; 8 U.S.C. 1226(b).)

Exh. 4) and was living in a government dormitory where he also received board. In 1947 the Communist Party took control of the Government and its educational facilities, and he was told that if he desired to stay in the dormitory he would have to join the Communist Party (p. 3, Exh. 4). He was also informed that he would not be permitted to attend college if he were not a member of the Communist Party and that if he wished to get an allowance or be admitted to the dormitory he or someone in his family would have to be a member of the Party. The applicant then joined; he received free food and lodging and was permitted to continue his studies.

The applicant testified he was an inactive member going to meetings only when brought, that he attended meetings about three or four times a year, that he had no official position, that he never attended indoctrination school of the Communist Party, that he never made speeches or gave any lectures with regard to communism, that his only study of the communist political theory of government had been when it was given to him at school, and that he had never subscribed to any communist publication in Hungary or any other country (p. 4, Exh. 4). He stated that he did not believe in the communist philosophy and that he had been a member of no other unit or group of the Communist Party other than the Communist Party itself. The applicant stated that he saw no harm in joining the Party because its true purpose was masked, and it had been working with and apparently receiving the approval of the Western powers. In the second year of attendance at the university, he realized the nature of the Party but continued with his membership because he had to in order to finish his studies and protect himself. He stated that at the first available opportunity, he fled the country. He testified that if he had been able to continue as a student without joining, he would not have joined the Communist Party (pp. 9, 12; p. 3, Exh. 4). In 1953, the applicant finished his school and took a position in a research institute. He remained a member of the Party until he fled from Hungary. During the Hungarian revolution, the applicant states he was a freedom fighter.

Now we shall consider whether the applicant's failure to reveal that he had been a member of the Communist Party made the visa he received one obtained by fraud. The rule to be applied is that:

> a misrepresentation is not material, when made during proceedings for admission into the United States, if the alien would not have been denied a visa or excluded had he told the truth. [*Matter of G—M*, 7—40. Atty. Gen., Apr. 2, 1956, p. 74]

Because it is disturbing that one who deliberately conceals the truth should not be penalized for his act, it should be made clear that the administrative rule is not a matter of policy but is one based on judicial mandate which does not permit too much leeway. Because some confusion has been brought about by recent judicial pronouncements, we shall briefly state our understanding of the situation.

Leading the list of the authorities relied upon by the Attorney General in making the statement we have quoted is the case of *United States ex rel. Iorio* v. *Day*, 34 F.2d 920 (C.A. 2, 1929). It is the mandate of this case which has been paraphrased by the Attorney General. It is a mandate which until recent years was not questioned by the courts and while it now has its judicial critics, it has not lost its judicial defenders. Iorio entered as an alien in 1902. He paid several fines for liquor violations and was imprisoned for illegal possession of liquor. In 1926 he went to Italy on a visit. There he obtained a visa which in 1927 he used to reenter the United States. In procuring the visa, he stated under oath that he had never been imprisoned. After his return he regularly engaged in the illicit sale of liquor. The Service attempted to deport him on the charge, among others, that he had procured his visa by fraud by swearing that he had never been imprisoned. The court held the ground of deportation was bad in law, stating (at p. 921) that "It is true that the relator was bound to tell the truth on his application, but, if what he suppressed was irrelevant to his admission, the mere suppression would not debar him. Doubtless it might be made to do so, but we cannot find that it has been. So the first question comes down at most to whether the facts, had he disclosed them, would have been enough to justify the refusal of a visa or exclusion upon entry." The court concluded that since the violation for which respondent had been imprisoned did not involve moral turpitude, *i.e.*, was not a ground of inadmissibility, Iorio had not suppressed "facts which would have justified him [the vice consul] in refusing a visa, had he disclosed them * * *" (p. 921).

If there are any doubts from the discussion in *Iorio* that the facts which would have been enough to justify refusal of a visa or exclusion upon entry are those which reveal a ground of inadmissibility, *United States ex rel. Teper* v. *Miller*, 87 F. Supp. 285 (S.D. N.Y., 1949), the latest case cited by the Attorney General in support of his rule should lay them at rest. *Teper* clearly reveals that a suppressed fact is material only if the fact suppressed was a ground of exclusion under the law. The issue then is not, as the District Director sees it, whether a consul would have refused a visa; rather, it is whether a *proper* refusal could have been made (*In re Field's Petition*, 159 F. Supp. 144, 147 (S.D. N.Y., 1958)).

In an effort to reconcile decisions in apparent conflict with *Iorio*, we do not read *Iorio* and the cases adhering to it as finding materiality only where an alien was excludable at the time of entry—in some cases it is proper to establish that the alien was *probably* excludable. Where the claimed ground of inadmissibility is based on defects in the personality—matters which cannot be established with scientific certainty—or where Congress made a ground of inadmissibility dependent upon the "opinion" of a consul, or where judgments must be formed as to whether an alien seeks to enter for purposes inimical to the welfare of the nation, then it is sufficient to establish that grounds for the proper refusal of a visa probably existed (*United States* v. *Flores-Rodriguez*, 237 F.2d 405 (C.A. 2, 1956); *Matter of C—T—P—*, 8—134).

In 1956 the Service, in the belief that *United States ex rel. Jankowski* v. *Shaughnessy*, 186 F.2d 580 (C.A. 2, 1951), had disapproved *Iorio*, pressed for a rule declaring the materiality of any misrepresentation knowingly made which had a natural tendency to impede, hinder, or forestall an investigation into an alien's eligibility for the issuance of a visa. The matter was brought to the attention of the Attorney General whose order dated May 8, 1956, showed no inclination to depart from the paraphrase of *Iorio* found in his order of April 2, 1956 (*Matter of G—M—*, *supra;* *Matter of S—C—*, 7—76, 92). Subsequent decisions both in the circuit where *Iorio* was decided (*In re Field's Petition*, 159 F. Supp. 144 (S.D. N.Y., 1958), and other circuits (*Calvillo* v. *Robinson*, 271 F.2d 249 (C.A. 7, 1959); *Herrera-Roca* v. *Barber*, 150 F. Supp. 492 (N.D. Cal., 1957)), reaffirmed the validity of the *Iorio* rule.

X We realize that several circuits are not convinced that the *Iorio* rule represents the law today. One court has stated that it believes the majority rule to be "that the fact the alien might have obtained a visa on the true facts does not vitiate the fraud or misrepresentation" (*Vizcuette Torres* v. *Hoy*, 269 F.2d 289 (C.A. 9, 1959); *Duran-Garcia* v. *Neelly*, 246 F.2d 287 (C.A. 5, 1957); *Landon* v. *Clarke*, 239 F.2d 631 (C.A. 1, 1956); *Ablett* v. *Brownell*, 240 F.2d 625 (C.A. D.C., 1957)). However, the Attorney General's opinion of April 2, 1956, is binding upon us and requires termination of these proceedings. X

Membership, to be a ground of inadmissibility, must be voluntary (*Matter of B—*, 5—72). The special inquiry officer and District Director have found the membership to be involuntary. The matter misrepresented was not a ground of inadmissibility; it cannot be held that the visa was obtained by fraud (*United States ex rel. Teper* v. *Miller*, *supra*). The special inquiry officer properly found the applicant admissible. The appeal of the District Director will be dismissed.

This record reveals that when the applicant applied for an immigrant visa in Austria after he had fled from Hungary, he revealed the facts concerning his Communist Party membership and apparently because of the membership was refused an immigrant visa. This situation is analogous to those where an alien has come to the United States using a visa which he obtained without revealing all the facts he should have; the alien is placed in expulsion proceedings; the consul states in a letter which is part of the record that had he known the true facts he would not have issued a visa. Under such circumstances, we have found the rule to be that when a case had left the jurisdiction of the Department of State, the issue as to whether there had been concealment of grounds which made the alien inadmissible and would have been the *proper* basis for the refusal of a visa is one for the authority considering the issue (*Matter of S—C—*, *supra*, pp. 77–78; *Matter of C—T—P—*, *supra*, p. 139; see *In re Field's Petition*, *supra*, p. 146).

The Service representative contends that the visa is invalid under 22 CFR 42.42(b). This section does not invalidate a visa which has been issued; it merely provides authority to a consul for refusing to issue a visa where certain requirements have not been met or there has been a false statement. Neither it nor section 42.44 of 22 CFR, which does authorize the revocation of a visa procured by fraud or misrepresentation, has, as counsel points out, been used to invalidate the applicant's visa.

In view of the action we have taken, we have found it unnecessary to explore several of counsel's contentions.

ORDER: It is ordered that the appeal of the District Director be and the same is hereby dismissed.

BEFORE THE BOARD

(June 2, 1960)

In re: *Matter of B—C—*

DISCUSSION: Respondent appealed from the order of the special inquiry officer requiring his deportation. On June 3, 1959, we found respondent deportable and granted him voluntary departure. A motion for reconsideration was filed; it was denied on November 17, 1959. Another petition for reconsideration is now before us. It will be denied.

Respondent, a 54-year-old married male, a native and national of Mexico, lived in the United States as a permanent resident from 1927 to 1930. From 1944 to 1946, he worked in the United States as a contract laborer. From 1952 to August 30, 1954, he worked in the United States as a contract laborer after having gained admission in his nephew's name (E—B—G—). On May 3, 1954, he [illegible] in his own name, his misrepresentation was material and he obtained documentation by misrepresentation (*Matter of P—F—*, 6—164). This alone is sufficient to support the charge. Moreover, respondent created another ground of inadmissibility when he obtained a second document (the visa) by concealing the fact that he was inadmissible. When he applied for a visa, he concealed both his use of an alias and the fact that he had been in the United States illegally. These facts would have shown the consul that respondent was inadmissible as a person who had procured a document by fraud and, therefore, that he was ineligible for the issuance of a visa.

ORDER: It is ordered that the motion be and the same is hereby denied.

BEFORE THE ATTORNEY GENERAL

(October 2, 1961)

In re: *Matter of S— and B—C—*

DISCUSSION: These cases present different aspects of the question whether misrepresentation by an alien in connection with the procurement of a visa or other documentation necessarily excludes him from admission to the United States under section 212(a)(19) of the Immigration and Nationality Act of 1952, and renders him subject to deportation under section 241(a)(1) of that Act as one who was excludable at the time of entry. 8 U.S.C. 1182(a)(19), 1251(a)(1). Because the numerous decisions on this question by the Board of Immigration Appeals, the Attorney General and the courts have not been wholly clear or consistent, a re-examination of the principles which should govern the disposition of such cases by the Executive Branch is appropriate. Accordingly, I have had the cases referred to me under 8 CFR 3.1(h)(1)(i).

Section 212(a) enumerates various classes of aliens who shall be ineligible to receive visas and excluded from admission into the United States. One such class is:

> (19) Any alien who seeks to procure, or has sought to procure, or has procured a visa or other documentation, or seeks to enter the United States, by fraud, or by willfully misrepresenting a material fact.

As a statutory ground of exclusion this provision is new in the 1952 Act. However, decisions under earlier immigration acts have held that a willful misrepresentation of material fact subjected the alien to exclusion or deportation on various grounds, such as that the misrepresentation defeated inspection, *United States ex rel. Volpe* v. *Smith*, 62 F.2d 808, 811 (C.A. 7, 1933), or that a visa procured by misrepresentation is no visa, *Ablett* v. *Brownell*, 240 F.2d 625 (C.A. D.C., 1957). In general, the judicial and administrative decisions have applied the same tests of materiality, regardless of whether the cases arise under the 1952 Act or prior laws, and have in effect treated section 212(a)(19) of the 1952 Act as declaratory of previously existing law.

In the cases before me, the Board of Immigration Appeals, properly regarding itself as controlled by prior administrative decisions. which had been affirmed by my predecessors, applied two different tests of materiality to the misstatements. In the case of S—, the alien, a Hungarian, failed to disclose in his application for a nonimmigrant visa issued by the U.S. Consul at Toronto, Canada, and in a subsequent entry interview the fact that he had been a member of the Communist Party in Hungary from December 1947 to October 1956. Before the special inquiry officer, he admitted his Communist Party membership and explained it in a manner which persuaded the officer that it was involuntary within the meaning of section 212(a)(28)(I) of the Act, and hence not a ground of exclusion. The Board, considering that involuntariness had been conceded by the District Director, treated the alien's membership as involuntary. Applying the rule stated by the Attorney General in *Matter of G—M—*, 7—40, 74 (1956), that "a misrepresentation is not material . . . if the alien would not have been denied a visa or excluded had he told the truth," the Board held the alien should be admitted.

In the case of B—C—, the alien, a Mexican, had lived in the United States as a permanent resident from 1927 to 1930, and had worked as a contract laborer in the United States from 1944 to 1946, and from 1952 to August 1954. He was again admitted as a permanent resident on April 24, 1956. In 1952 and in May 1954, he entered the United States on agricultural laborer's cards issued in the name of his nephew. In connection with these entries he also misstated his wife's name. In his visa application in 1956 he gave the correct names of himself and his wife, but failed to disclose several of his prior residences in the United States, including those which followed his entries using his nephew's name, and failed to disclose his use of an alias. The Board of Immigration Appeals pointed out that "there is nothing in this record to reveal that that respondent could not have qualified for a laborer's permit in his own name." However, applying the rule which it regarded as settled by the Attorney General's affirmance of its decision in *Matter of B— and P—*, 2—638 (1947), that a misrepresentation as to identity "is always material," the Board ordered the alien deported.

In both cases the sole issue is materiality. There is no doubt that the misrepresentations were willful, in the sense that they were deliberately made with knowledge of their falsity.

Since the issue as to materiality of a false statement under section 212(a)(19) arises in both administrative and judicial proceedings, it is appropriate to give substantial weight to the decisions of the federal courts on the question. However, the various district and circuit courts have differed as to the test to be applied, and these differences have not been resolved by the Supreme Court. Accordingly, in the exercise of my statutory responsibilities under section 103 for the administration and enforcement of the immigration and naturalization laws and for making determinations on questions of law arising under these laws which will be controlling within the Executive Branch, it is appropriate for me to adopt such interpretation of section 212(a)(19) as I believe will be most consonant with the purposes and policies of the Immigration and Nationality Act.

The Conference Report on the 1952 Act reflects a concern, in the administration of section 212(a)(19), both with "fair humanitarian standards" and with the need to "prevent the evasion of law by fraud" (House Report No. 2096, 82d Congress, 2d Session, p. 128). False statements to the United States, under oath, should not lightly be condoned, particularly, as the Report indicates, if they serve to cut off the investigation which Congress provided for. As one court has observed, to allow an alien to make a false statement which chokes off investigation into a substantial question of eligibility for a visa, and then, when the falsity is discovered, "try out his eligibility just as if nothing had happened," is "an invitation to false swearing." *Ganduxe y Marino* v. *Murff*, 183 F. Supp. 565, 567 (S.D., N.Y., 1959), affirmed sub nom. *Ganduxe y Marino* v. *Esperdy*, 278 F.2d 330 (C.A. 2, 1960), cert. den. 364 U.S. 824 (1960). Moreover, a rule that false statements are material only if on the true facts the alien was excludable would deny subsection (19) any effect as an independent ground of exclusion, since in every case the alien would be excludable because of the existence of other grounds of exclusion and the fact that he had made false statements would add nothing. I am unwilling to approve an interpretation which would deny any practical significance to subsection (19), in the face of the clear congressional intent by that section to create a separate and independent ground of exclusion.

On the other hand, it is important to remember that—

> Shutting off the opportunity to come to the United States actually is a crushing deprivation to many prospective immigrants. Very often it destroys the hopes and aspirations of a lifetime, and it frequently operates not only against the individual immediately but also bears heavily upon his family in and out of the United States. (Report of the President's Commission on Immigration and Naturalization, Jan. 1, 1953, p. 177.)

An alien ought not be excluded from entry or subjected to deportation, because of a misrepresentation made at some time in the remote past in connection with an entry into the United States, unless the misrepresentation had at least some tendency to enable the alien to obtain documents or entry which he might not have obtained without it. As the Report of the President's Commission subsequently emphasized, not every past mistake should operate as a permanent exclusion.

In *Matter of G—M—, supra*, the test that a misrepresentation is not material unless the alien would have been excludable on the true facts was said to be consistently applied by the courts, citing one decision of the seventh circuit and four decisions within the second circuit. Although recently reaffirmed by the seventh circuit, *Calvillo* v. *Robinson*, 271 F.2d 249, 253 (C.C.A. 7, 1959), that test has now been definitely rejected by the second circuit, *United States ex rel. Jankowski* v. *Shaughnessy*, 186 F.2d 580, 582 (C.A. 2, 1951); *Ganduxe y Marino* v. *Murff, supra; In re Field's Petition*, 159 F. Supp. 144, 147 (S.D. N.Y., 1958); cf. *United States* v. *Flores-Rodriguez*, 237 F.2d 405, 412 (C.A. 2, 1956), and by every other circuit that has passed on the question. *Landon* v. *Clarke*, 239 F.2d 631, 634–6 (C.A. 1, 1956); *Ablett* v. *Brownell*, 240 F.2d 625, 630 (C.A. D.C., 1957); *Duran-Garcia* v. *Neelly*, 246 F.2d 287, 291 (C.A. 5, 1957); *Viruette Torres* v. *Hoy*, 269 F.2d. 289, 291 (C.A. 9, 1959); and see *McCandless* v. *United States ex rel. Murphy*, 47 F.2d 1072 (C.A. 3, 1931); *Daskaloff* v. *Zurbrick*, 103 F.2d 579 (C.A. 6, 1939).

On the related question whether naturalization should be revoked as having been procured "by concealment of a material fact or by willful misrepresentation," the Supreme Court has recently indicated that the facts concealed are material if either "they would have warranted denial of citizenship" or "their disclosure might have been useful in an investigation possibly leading to the discovery of other facts warranting denial of citizenship." *Chaunt* v. *United States*, 364 U.S. 350, 355 (1960); see *Costello* v. *United States*, 365 U.S. 265, 269–270 (1961).

The test of materiality which in my judgment will best effectuate the objectives of the Act is the following: A misrepresentation made in connection with an application for visa or other documents, or with entry into the United States, is material if either (1) the alien is excludable on the true facts, or (2) the misrepresentation tends to shut off a line of inquiry which is relevant to the alien's eligibility and which might well have resulted in a proper determination that he be excluded. This test is generally consistent with the prevailing judicial authorities, cited above.

This test should be applied also to misrepresentations relating to identity. In *Landon* v. *Clarke*, supra, the first circuit stated that a misrepresentation as to identity which resulted in entry without proper statutory investigation "is always material, . . . no matter [illegible] investigation would have [illegible] been made." 239 F.2d at page 634. See also *McCandless* v. *Murphy*, *supra* (C.A. 3); *Duran-Garcia* v. *Neelly*, *supra*, at page 291 (C.A. 5). Other circuits, however, have applied the rule that a misrepresentation as to identity, like other misrepresentations, is material only if the alien gained through it some advantage to which he would not have been entitled under the true facts. *United States ex rel. Fink* v. *Reimer*, 96 F.2d 217, 218 (C.A. 2, 1938), cert. den. 305 U.S. 618; *United States ex rel. Leibowitz* v. *Schlotfeldt*, 94 F.2d 263 (C.A. 7, 1938). On principle, I see no valid basis for distinguishing between different types of misrepresentations and for applying a special rule to cases involving identity. While a misrepresentation as to identity will generally have the effect of shutting off an investigation, so also will misrepresentations as to place of residence, prior exclusion or deportation from the United States, criminal record, Communist Party membership, *etc.* No good reason appears for saying that in one type of case the mere shutting off of an investigation is enough, regardless of what its results would have been, while in all the others consideration must also be given to what the investigation might have shown. The 1952 Act makes no such distinction; indeed, the fact that it provides for exclusion of aliens who "procure" documents by misrepresentation suggests an intent that the misrepresentation must have had at least some tendency to achieve a result which would not have been achieved without it.*

The application of the test set forth in this opinion will turn on the answers to three questions.

First, does the record establish that the alien is excludable on the true facts? If it does, then the misrepresentation was material. If it does not, then the second and third questions must be considered.

Second, did the misrepresentation tend to shut off a line of inquiry which is relevant to the alien's eligibility? A misrepresentation as to identity or place of past residence, for example, would almost necessarily have shut off an opportunity to investigate part or all of the alien's past history, and thus have shut off a relevant investigation. In other situations, the tendency of the misrepresentation to shut off a relevant line of investigation may depend on the particular facts. It should be emphasized that, as the *Chaunt* decision indicates, a remote, tenuous, or fanciful connection between a misrepresentation and a line of inquiry which is relevant to the alien's eligibility is insufficient to satisfy this aspect of the test of materiality.

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* Where the visa or other document presented by the alien as the basis for entry into the United States is issued in the name of another, a question may be presented as to whether the alien satisfies the requirement of section 212(a)(20) that he possess a "valid" visa or other document. *Cf. United States ex rel. Fink v. Reimer, supra; Matter of B— and P—, supra*, at pages 639–40. No such question is presented in the case of B—C— since the alien's last entry was on a visa issued in his own name.

Third, if a relevant line of inquiry has been cut off, might that inquiry have resulted in a proper determination that the alien be excluded? On this aspect of the question the alien bears the burden of persuasion and proof. Having made a willful misrepresentation which tends to cut off a relevant line of investigation, he cannot now try out his eligibility as if nothing had happened. *Ganduxe y Marino* v. *Murff*, *supra.* The law recognizes numerous situations in which one who, by his intentional and wrongful act, has prevented or restricted an inquiry into relevant facts bears the burden of establishing the true facts and the risk that any uncertainties resulting from his own obstruction of the inquiry may be resolved against him. Compare, *e.g.*, *The Idaho*, 93 U.S. 575, 585-6 (1876); *Holland* v. *United States*, 348 U.S. 121, 130-32 (1954); II Wigmore, Evidence §§ 278, 291.

Frequently the alien will attempt to meet this burden by evidence that on the true facts he is eligible for admission to the United States. The weight to be given such evidence will depend in large part on whether the government authorities have had adequate opportunity, once the misrepresentation became known, to conduct the kind of investigation which would have been conducted had there been no misrepresentation. Where the opportunity for adequate investigation has been lessened because of the alien's misconduct in making a deliberate misrepresentation, either because of the passage of time or for other reasons, the alien's evidence of his eligibility may be unpersuasive, for the same reasons that have led courts to strike or to place little or no weight on evidence with respect to which the opposing party, through no fault of his own, was denied adequate opportunity for cross-examination. Compare *Communist Party* v. *Subversive Activities Control Board*, 351 U.S. 115. On the other hand, where the government officials have made an adequate investigation after the misrepresentation became known, or have had reasonable opportunity to do so, an unrefuted showing of eligibility by the alien may be highly persuasive that the misrepresentation was not material.

In a sense, of course, any misrepresentation which delays an investigation could be said to have impaired the opportunity for investigation. One can always speculate that a witness might have become unavailable or less cooperative, or a document have been mislaid, or some other investigative opportunity lost, by the passage of time. Where a reasonably adequate investigation fails to suggest the existence of a ground of exclusion, however, such theoretical possibilities are not a sufficient basis for denying valuable rights to the alien. On the other hand, where the available facts indicate the existence of a substantial question as to the alien's eligibility to enter the United States, the possibility of such an impairment of investigative opportunity may in some cases be sufficient to warrant a holding that the alien's misrepresentation was material. In close cases the government ought not be required to speculate as to what would have been the results of an investigation which the alien has prevented.

The two cases before me well illustrate some of the variations that can occur. In the S— case it is obvious that disclosure of the alien's Communist Party membership in connection with his visa application would have raised a serious question as to the alien's admissibility, and would have been likely to lead to further investigation of the question whether his membership was voluntary or involuntary. It is quite possible that investigation by the State Department, either into the alien's own activities or into the correctness of his statements as to conditions existing in Hungary during the period of his Communist Party membership, would have led to a proper denial of a visa. Indeed it appears that on an earlier application to the consul in Vienna in which the alien disclosed his Communist Party membership, the visa was denied, for reasons which do not appear in this record. Even on the alien's own testimony it is at least a very close question, which I am not required to and do not decide, whether his Communist Party membership was "necessary" to enable him to obtain employment, food rations, or other essentials of living, or merely convenient in the sense that it facilitated his obtaining an education and bettering his status in life. It would not be necessary to question the alien's credibility or sincerity in order to determine that the investigation, which would have been made had the alien stated the true facts in his application for visa, might well have produced independent evidence sufficient to tip the scales of decision in the opposite direction. On the present record I find that the alien's failure to disclose his Communist Party membership was a material misrepresentation which renders him excludable under section 212(a)(19).

In the case of B—C—, the Board's decision rested on two sets of misrepresentations by the alien: (1) misrepresentations of his and his wife's identity in obtaining agricultural worker's permits in 1952 and 1954, and (2) failure in his 1956 visa application to disclose his prior residence in the United States following the 1952 and 1954 entries, and his use of an alias in connection with those entries. As to the first, there is no doubt that the alien's use of his nephew's name in obtaining agricultural worker's cards in 1952 and 1954 shut off investigation at that time. But there is nothing in the record to indicate that if he had used the true name of himself and his wife the resultant investigation would have revealed a ground of exclusion. Indeed, the fact that the alien was allowed, presumably after appropriate investigation, to enter the United States under his correct name, both before and after the two entries in question, is persuasive that his use of his nephew's name had no tendency to procure a result which he might not have procured under his own name. On the record before me, I do not find that the alien's misrepresentation, in obtaining agricultural worker's cards in 1952 and 1954, of his and his wife's names was material.

As to the 1956 misrepresentations, the Board treated them as material because they concealed the 1952 and 1954 entries; since the Board regarded the misrepresentations made in connection with the earlier entries as making the alien excludable under section 212(a) (19), it considered that the 1956 misrepresentations concealed a ground of exclusion and for that reason were material. In view of my holding as to the 1952 and 1954 misrepresentations, this ground of decision cannot stand. On remand, the Board should reconsider the materiality of the 1956 misrepresentations in the light of this decision.

This decision applies a test of materiality different from those heretofore applied by the Board. In order not to foreclose any party from presenting any new evidence or contentions which may have become relevant in the light of this decision, and which such party was not under any obligation to present earlier, the cases will be remanded to the Board of Immigration Appeals for such further proceedings, consistent with this opinion, as it deems appropriate.

PROVISIONS OF THE IMMIGRATION AND NATIONALITY ACT WHICH ALLOW THE STATE DEPARTMENT TO DENY A VISA TO A PERSON WHO MAKES FALSE STATEMENTS OR SUBMITS FALSE DOCUMENTS IN ORDER TO OBTAIN A VISA:

8 USC§ 1182. **Excludable aliens—General classes**

(a) Except as otherwise provided in this chapter, the following classes of aliens shall be ineligible to receive visas and shall be excluded from admission into the United States:

(9) Aliens who have been convicted of a crime involving moral turpitude (other than a purely political offense), or aliens who admit having committed such a crime, or aliens who admit committing acts which constitute the essential elements of such a crime; except that aliens who have committed only one such crime while under the age of eighteen years may be granted a visa and admitted if the crime was committed more than five years prior to the date of the application for a visa or other documentation, and more than five years prior to date of application for admission to the United States, unless the crime resulted in confinement in a prison or correctional institution, in which case such alien must have been released from such confinement more than five years prior to the date of the application for a visa or other documentation, and for admission, to the United States. Any alien who would be excludable because of the conviction of a misdemeanor classifiable as a petty offense under the provisions of section 1(3) of Title 18, by reason of the punishment actually imposed, or who would be excludable as one who admits the commission of an offense that is classifiable as a misdemeanor under the provisions of section 1(2) of Title 18, by reason of the punishment which might have been imposed upon him, may be granted a visa and admitted to the United States if otherwise admissible: *Provided*, That the alien has committed only one such offense, or admits the commission of acts which constitute the essential elements of only one such offense.

(19) Any alien who seeks to procure, or has sought to procure, or has procured a visa or other documentation, or seeks to enter the United States, by fraud, or by willfully misrepresenting a material fact;

EXHIBIT NO. 6

SYNOPSIS OF THE IDENTIFICATION PROVISIONS OF THE SIMPSON-MAZZOLI IMMIGRATION BILL

S. 2222, as passed by the Senate requires that a person seeking to work in the United States must attest to his eligibility to work and must verify that eligibility by presenting to the prospective employer:

1(a) A U.S. passport, or a social security card, or U.S. birth certificate, and

2(a) An INS ADIT card, a driver's license or state issued photo identification.

The Administration must create, within three years, a secure system of identification so that:

(a) The system will reliably determine that a person's identity is legitimate;

(b) If the system is to rely upon a document, that document must be resistant to counterfeiting and tampering;

(c) The personal information within the system will only be available to the government and the employers to verify that a person is not an unauthorized alien;

(d) The system will protect the privacy and security of the personal information;

(e) The system will not be used for law enforcement purposes (except for enforcement of the act or crimes related to misuse of visa, passport and INS documents);

(f) The card or document, if required, need only be presented at time of hiring and need not be presented or carried for any other purpose;

(g) Existing federal and state identification systems will be examined to determine their suitability for use within the system authorized by the Act.

Chairman ROTH. Thank you, Mr. Brown.

The subcommittee is in recess.

[Whereupon, at 12:07 p.m. the subcommittee meeting was adjourned.]

APPENDIX

PREPARED STATEMENT OF SENATOR ROTH

This morning the permanent Subcommittee on Invstigations will continue its examination into fraud and abuse in the issuance and use of false Federal identification documents and the threat this poses to entitlement and other benefit programs. For the last year the subcommittee has conducted a study of the problems which surround U.S. passports, visas, INS green cards and social security cards.

We have examined the issuance of these documents by Government offices both in the United States and in Embassies overseas. I have been appalled to see the uses which have been made of these documents by people who have stolen them, altered them or lied to obtain them.

Last June we held 2 days of hearings in which a succession of witnesses testified to the ease with which these supposedly secure documents can be produced or obtained by illegal means. A convicted forger testified as to the simple means he used to successfully produce a variety of convincing Federal and State documents. He even testified that he was assisted in the development of his skills by his work as an inmate in the print shop of a Federal Penitentiary. He was able to demonstrate that even the most secure Federal ID documents are subject to forgery.

We also received testimony from a variety of Inspectors General and other law enforcement officials who demonstrated the use of false documents to obtain food stamps, social security and student educational benefits. From these hearings we learned that false identification fraud is a growing underground industry within the United States, an industry which serves fugitives, terrorists, illegal aliens and various other felons who are seeking to defraud Federal and State governments out of billions of dollars annually.

We are also aware of problems arising from the fact that Federal agencies do not have a regular system to validate Federal identification information. Agencies which issue the identification documents seem to devote little, if any, attention to the uses of those documents in Federal programs beyond the jurisdiction of their own agencies. For example, INS issues a document known as the I-94 to foreign travelers arriving in the United States. INS has stated that the only purpose for the document is to account for the arrival and departure of the traveler. Therefore the document is a simple form, printed by the airlines, which is stamped by INS. Unfortunately, INS failed to realize that for many travelers this document is the only proof of their legal status within the United States. Since many such persons are entitled to food stamps, it is the only proof of eligibility they can offer. Therefore the Department of Agriculture accepts the I-94 as proof of identity and eligibility for food stamps. Until our hearings last June, neither INS nor the Department of Agriculture had ever discussed the fraudulent use of the I-94 in the food stamp program. While INS was aware that the I-94 was subject to substantial abuse, no effort was made to alert other Federal agencies which also relied upon the document.

I am pleased to report that in response to the subcommittee's concerns, some of the affected Federal agencies are finally beginning to communicate between one another in an effort to identify and eliminate Federal document fraud. Moreover, the President's Council on Integrity and Efficiency has taken an active interest in this area. This morning we will hear of some of the cooperative efforts which have taken place since last June.

Clearly more must be done to improve the cooperation between Federal agencies. I see a need for more information sharing where Federal benefit programs are concerned. We were shocked to learn that even when a Federal law enforcement agency had information concerning false identities, that this information was not passed on to other law enforcement agencies.

Because of our concern in this area, the subcommittee has conducted a project which was designed to examine the presence of identification fraud in a variety of Federal programs. From information developed at our June hearing, we prepared a list of 535 false and questionable identities which has been detected by INS, the Department of State, the Department of Education and the Postal Inspectors. While each agency had detected these identities in the course of an investigation, the identity information was never provided to any other agency.

We took these 535 names and social security numbers and provided them to the Inspectors General at Education, Agriculture, Health and Human Services, and to the Customs Service and the IRS.

Our purpose was to conduct a limited review of Federal programs to determine if persons were using these false and questionable identities to: (*a*) receive food stamps; (*b*) receive social security benefits; (*c*) receive income tax refunds; (*d*) receive educational loans; (*e*) enter and leave the United States; and (*f*) transport money to and from the United States.

The results of this survey were predictable in some respects and quite shocking in others. We found that only 34 percent of all the name and social security number combinations matched with the numbers assigned by the Social Security Administration. This means that two-thirds of the false and questionable identities identified by our project did not have a legitimate social security number.

We found 60 cases where a false or questionable ID has been used to apply for or obtain food stamps, an education grant, social security benefits or an income tax refund. We even found that someone was using the social security number of Newton Van Drunen, our forger from last June, to receive food stamps.

This survey confirmed our belief that at the very least, false identification information is a valuable source of law enforcement intelligence information. This was graphically illustrated in the matches we received from those cases arising from the Department of State.

As the subcommittee staff statement points out, the U.S. passport is a highly valuable document to terrorists, smugglers and other criminals. The State Department itself estimates that they receive 30,000 fraudulent applications a year. However, the passport office detects fewer than 900 a year, and barely one-third of these are ever sent to a law enforcement agency for criminal investigation. We selected 80 cases of suspected passport fraud which were detected by State as being fraudulent, but which were never sent to a law enforcement agency. We found that 40 percent of the identities used on these fraudulent applications may have already been identified in the Customs Service's lookout system as having been involved with a variety of crimes related to drugs and weapons smuggling, immigration law violations, currency violations, or were fugitives from justice. Because the Department of State made no attempt to refer any of these cases to a law enforcement agency at the time of detection the Government lost the opportunity to fully identify or apprehend these criminals. I look forward to today's appearance by State Department officials so that we can find out what actions they plan to take to rectify this situation.

In addition to our study of the interagency presence of false and questionable identities, a number of developments have occurred since our June hearing. In response to the concerns expressed at our hearing, the Social Security Administration announced last month that starting in 1983, they are going to print the social security card on banknote paper. While this is certainly an important step in attacking the underground market in false social security cards, I intend to question the social security officials here today to determine what additional steps they are prepared to take to improve both the card and the procedures used to issue the card.

Finally, the Senate has passed an immigration reform bill. While many important social concerns are addressed in this legislation, one particular aspect of the bill is of great concern to this subcommittee. The bill requires the administration to develop an identification card system so that employers can determine who is legally entitled to work in the United States.

The administration seemingly has two choices: It can develop a new card, or it can rely upon a series of existing documents. We have before us today those agencies who undoubtedly will share the responsibility for developing and implementing the administration's decision, should the bill become law. Based upon this subcommittee's demonstration of the failings and weaknesses of current Federal identification documents, I believe that we have a definite responsibility to examine current and proposed plans in this area, and to insure that this effort is headed in the right direction.

STAFF STATEMENT

Mr. Chairman and Members of the Subcommittee:

Since August 1981, the staff of the Subcommittee has been studying the fraudulent uses of federal identity documents. The leadership had us undertake this inquiry as part of the Subcommittee's emphasis on fraud and waste in the government. We wanted to do two things: first, to trace the extent counterfeit, altered, or fraudulently-obtained identity documents can be used to penetrate government benefit programs; and second, to ascertain the reliability of these documents as a secure means of identification. In the past year, the reliability of federal identity documents has taken on added significance as Congress considers pending legislation to revise U.S. immigration policy and create a worker identification system.

Our investigative work indicates that the scope of the false identification problem is enormous and its impact on government and business is pervasive. In 1976, a Department of Justice study estimated that false identification cost the American public $15 billion in program and commercial losses. During the course of our investigation we saw no indication that false identification crimes and the resulting fraud have in any way diminished. If the $15 billion is adjusted to reflect annual inflation increases since January, 1977 the current cost of false identification is over $24 billion.

No Statistics Tracked By Agencies

We faced two major obstacles in attempting to quantify the loss to government benefit programs as a result of these frauds. First and foremost, there is a glaring absence of firm statistics on false identification crimes. Because false identification is considered a *modus operandi* - not a crime itself - federal law enforcement agencies merely note "false identification" when it is used in conjunction with the commission of other crimes such as drug smuggling, flights from justice, acts of terrorism, or commercial credit frauds.

The second obstacle is the scant number of criminal cases presented against individuals misusing federal identification to siphon off government benefits. Cooperation is marginal between those agencies which issue and protect federal identification, and those benefit-paying agencies which rely on the documentation as proof of identity and entitlement eligibility. For example, if the Social Security Administration becomes aware of bogus social security numbers which have been used, the agency does not notify other welfare and service agencies of the phony numbers so they can screen and flag their recipient accounts.

ID-Issuing Agencies Are Open To Abuse

We saw certain factors as common threads linking together the problems of the various identity documents and the agencies which issue the identification, including:

- Proactive work by agency investigators is minimal. No inter-agency networks are in place to share leads or information on abusers or fraud patterns.
- Agency administrators exhibit low awareness of the fraud potential for misusing federal identification. Subsequently, employee training in document examination is cursory. The issuing process for the documents tends to be unsupervised, unauditable, and unsecure.
- Employees involved with document issuance are easily subject to corruption because of the criminal demand for "clean" documentation. Weak internal controls also aid employee malfeasance schemes.
- The so-called "security features" built into some of the federal identity documents are available commercially. In other instances, the security features are to be added in phases. Nonetheless, the documents are issued and used before agency verification capabilities are possible.

Other key factors surfaced during the course of the Subcommittee staff's work:

- There are hundreds of Federal statutes relating to false identification but not one specifically prohibits the use of false documents, or the unauthorized use of official documents, to obtain Federal identification.
- Each Federal statute focuses on a specific federally-issued document. The states also have statutes regulating use of certain documents within their borders. The result is a substantial jurisdictional as well as enforcement gap between Federal and state statutes.
- Even where Federal statutes are specific and well drafted, prosecution of false identification crimes is given a low priority. Prosecutorial merit of these cases is also considered weak as the criminal penalties are relatively lenient.

Scope and Definitions

To narrow the scope of investigation, the Subcommittee staff concentrated on federal identity documents which, by regulation or statute, are considered proof of identification and are used to establish entitlement eligibility in the federal benefit programs. Thus, we considered the U.S. passport, the U.S. nonimmigrant visa, alien registration cards (forms I-94, I-151, and I-551), and the social security card and number (see attached glossary for a detailed description of each document).

For purposes of this study, we considered any misuse of federal identification - by U.S. citizens, legal resident aliens, and illegal aliens - within our scope. False claims and statements were considered insofar as they were made to acquire federal identification. This type of fraud is accomplished through:

> Counterfeiting - unauthorized creation of a complete document by an unauthorized source.
>
> Alteration - abuse of a legitimate document by changing significant elements such as name, age, photograph, etc.
>
> Impersonation - use of another person's (living or deceased) legal documents as one's own.

In carrying out the investigation, we interviewed over 100 people including users of false documentation, document counterfeiters, agency investigators, and program administrators.

We spoke at length with representatives of the three agencies which issue the identity documents we reviewed -- the State Department, the Immigration and Naturalization Service (INS), and the Social Security Administration (SSA). Interviews were conducted in Washington, D.C., Boston, Chicago, Miami, Denver, and El Paso.

We communicated as well with law enforcement agents in the Treasury Department's Customs Service and Secret Service, the U.S. Postal Inspection Service, and the Department of Justice's INTERPOL office, Drug Enforcement Administration (DEA), Federal Bureau of Investigation (FBI), and several U.S. Attorney's offices.

On the program benefit side, we spoke with agency administrators and staff of the Inspectors General in the Departments of Agriculture (food stamp program), HHS (social security retirement and Aid to Families with Dependent Children programs), Education (student grants and loans), HUD (public housing), and agents of the IRS (multiple filing and tax avoidance schemes). We also had contact with law enforcement and program administration officials in Delaware, New Jersey, Illinois, Florida and California.

Finally, the Subcommittee staff reviewed over 350 closed files involving passport, visa, social security card, and alien registration card fraud.

Background on False Identification

In 1974, the United States Attorney General established the Federal Advisory Committee on False Identification (FACFI) to which 75 volunteers representing Federal, state and local agencies, the commercial sector, and the public were appointed. FACFI's 18-month effort culminated in a lengthy report which the Subcommittee staff used as a resource. The FACFI report highlighted the ease with which identity documents can be purchased or fabricated, and cited the birth certificate as the most troublesome document because over 1,000 types with a variety of formats and seals are issued through more than 7,000 vital records offices. The Committee noted that many Federal laws are ineffective in deterring false identification crimes, and recommended legislation to prohibit the knowing use of falsified documents when obtaining Federal identification. It is interesting to note that, in the five years since FACFI made its comments, only the recommendation to stiffen the penalty for misuse of the social security card was actually enacted.

Types of Schemes

Schemes to acquire false documentation are myriad and multiplex. Falsification of U.S. documents such as the visa and alien registration cards has become a formidable "cottage industry" overseas. In the U.S. the demand for counterfeit or altered immigration documents and social security cards is great enough to enable document sellers to set their own prices. Complete false identity packages which include everything an alien needs to get into the U.S. and remain here, or enough supporting documentation for a U.S. citizen's new identity, are readily available.

Generalizations about schemes and perpetrators are somewhat risky because new twists on old fraud themes come to light continually. Some patterns were detected, however. A trait common to all the schemes we reviewed is that acquisition of a false document is merely one step in a chain of events which progressively leads to other false documents and eventually results in benefit fraud. Hence, the person who lies to get a U.S. visa overseas is likely to be the same person who manages to penetrate benefit programs once here.

The cases presented below represent schemes perpetrated by U.S. citizens, permanent resident aliens, and illegal aliens. The last example, in particular, indicates the detrimental effects of agency non-cooperation further exacerbated by loopholes in the benefit eligibility process.

1) A ring of permanent resident aliens from the Dominican Republic used counterfeit Puerto Rican birth certificates to obtain legitimate social security numbers. By applying for welfare benefits using the names and social security numbers of 52 bogus mothers and children, the ring was able to illegally obtain $400,000 from federal and State of Massachusetts programs.

2) Three U.S. citizens applied for at least 40 social security numbers through the mail by using the identities of children less than one year old whose names had been gleaned from vital statistics records. Using these social security numbers and phony earnings statements created to indicate that each nonexistent taxpayer was due $16,000 in tax refunds, the men defrauded the Internal Revenue Service of $650,000 prior to detection.

3) James Aho Oseme entered the U.S. from Nigeria in 1976 on a student visa. From 1976 through 1980 he worked in violation of his visa, including a job with the Colorado Office of Unemployment. Oseme attempted to change his immigrant status by entering into a sham marriage with a U.S. citizen. When his "wife" became disenchanted with him, she reported the fraudulent marriage to immigration authorities. Oseme agreed to voluntarily leave the U.S. At the time of his departure, he had been collecting unemployment compensation benefits.

Because his own passport included a notation that he had left the U.S. under orders from INS, Oseme went to Ghana and obtained a new Nigerian passport in his true name. He then received a tourist visa from the American embassy in Ghana.

Upon his return to the Denver area, Oseme entered a city and community college as well as the University of Denver (all share the same campus). Oseme indicated to the foreign student office he was a student visitor with sufficient independent means to finance his education. However, he then applied for financial assistance by indicating to each school that he was a needy permanent resident alien.

Oseme received $12,385 in aid from the schools - half of the amount was in federal funds. He also continued to file unemployment compensation claims with Colorado, as well as federal income tax returns for calendar years 1977-79 for which he received over $1500 in earned income tax credits. When a school official alerted INS to Oseme's schemes, formal deportation proceedings against him and a criminal investigation into the student loan frauds were begun. One month after Oseme was deported back to Nigeria, a grand jury returned an indictment against him on three counts of mail fraud.

There is no record in either INS' or the State Department's intelligence lookout systems on James Oseme. He should be in Nigeria -- but no one knows whether he has received a new visa and reentered the U.S.

Numerous other fraud schemes depend on the involvement of agency employees who capitalize on their positions by altering files, stealing blank identity card stock, and improperly processing applications. One of the first to be convicted as a result of the recent ABSCAM investigation was an INS criminal investigator who accepted a $2,500 bribe to provide immigration "services" to FBI agents posing as Arab sheiks. Also convicted in 1981 was an INS examiner who aided a ring which brought Iranians into the U.S. illegally and then arranged for legitimate INS identity documents to be issued to the Iranians. This ring is thought to have netted at least $3 million from its activities.

After becoming acquainted with the types of schemes which can be used to undermine the integrity of federal identification, PSI staff next sought to examine what protections are used by agencies in issuing identity documentation.

THE STATE DEPARTMENT

The State Department's Bureau of Consular Affairs issues passports to U.S. travelers, and nonimmigrant visas to foreign visitors to the U.S.

Every year over three million passports are issued from 14 U.S. passport agencies, four agencies in U.S. insular possessions (Puerto Rico, Guam, the Virgin Islands, and American Somoa), and over 200 consular posts abroad. In addition, over 50 percent of the passport applications are initially handled by U.S. Postal Service officers and clerks of the court throughout the United States.

In fiscal year 1980 consular officers at 230 posts worldwide processed 7.2 million nonimmigrant visa applications from tourists, students, and business executives seeking temporary stays in the U.S. About 9% of the total applicants did not meet established criteria and were refused visas.

Investigative Responsibility is Disjointed

The Bureau of Consular Affairs has jurisdiction over passport and visa fraud. Abuses which involve State Department personnel are investigated by its Inspector General. But the Inspector General has no criminal investigators and passport and visa malfeasance cases are "contracted" out to the State Department's Office of Security. The Inspector General admitted that he does not retain operational authority over investigations handled by the Office of Security. Additionally, there is no internal procedure to ensure that employee malfeasance leads developed during the course of an investigation handled by the Bureau of Consular Affairs are referred to the Inspector General.

The primary mission of security officers assigned overseas is the protection of U.S. personnel, facilities and information. While there are some overseas officers who conduct fraud investigations upon request, this is a minor portion of their overall workload. According to the State Department, no data concerning man-years spent on passport and visa crime investigations is available. Stateside agents provide protective services to the Secretary of State, protect

U.S. diplomats and diplomatic visitors to the U.S., perform background checks on presidential appointees, and investigate waste, fraud, and abuse as well as passport/visa fraud. At the headquarters level, 45 security agents are assigned to protect Secretary Haig and others while three officers devote full-time to the passport and visa malfeasance/fraud area.

Not surprisingly, allegations of visa fraud by State Department employees overseas are extremely difficult to investigate. Without question, foreign service officers and foreign national employees are potentially vulnerable to corruption - particularly so because the controls over embassy supplies, equipment, and procedures to issue visas are weak. Yet, there is no investigative program to detect and eliminate employee participation in visa fraud. Since 1977, six cases against foreign service officers have been submitted for federal prosecution, resulting in the conviction of one foreign service officer who took an estimated $75,000 in bribes in Haiti. Another former officer was just indicted on charges that he used his consular position to illegally process visa applicants for a law firm. The Office of Security keeps no statistics on the number of foreign national employees who are prosecuted or sanctioned for visa fraud. Since foreign service officers - not security agents - investigate visa fraud, useful leads connecting embassy employees with local fraud rings or visa brokers may go undetected, or be compromised from the outset.

U.S. Passport — Ticket to a New Identity

The U.S. passport is an internationally recognized document that is accepted as *prima facie* evidence of identity and citizenship. Fraudulently-obtained passports, and counterfeit or altered passports, lend credence to criminals assuming false identities for any number of reasons including smuggling narcotics and circumventing currency reporting requirements.

The Department makes some attempt to inform its passport agents of ways to detect fraud, but postal agents and clerks of court who process and accept passport applications and examine supporting documentation do not receive fraud awareness training. All suspected fraud cases are screened by the Evaluations and Standards Division with the Department's Office of Passport Services. This Division is staffed by a director and seven paralegal assistants, although several years ago a staff of 40 assisted in combating passport fraud.

The State Department has estimated that one percent of passport applications are fraudulent. Using that percentage, 30,000 applications of the three million submitted yearly should be rejected. Yet, Department statistics provided to the Subcommittee reveal that only an average of 900 passport fraud cases a year have been detected since 1977. The General Accounting Office recently commented that the number of passport frauds detected is just the "tip of the iceberg."

Since the Evaluations and Standards Divisions does not initiate its own follow-up investigations, the Division tries to get the State Department's own Office of Security, or INS, DEA, FBI, or Customs to investigate passport fraud cases, depending upon the existance of any other violations within the investigating agency's domain. Passport fraud cases that cannot be staffed for investigation are simply closed.

In the last 18 months INS has been unable to provide investigative assistance to the Department, and the FBI has declined to accept responsibility for cases other than those in which an imposter assumes the identity of a deceased citizen.

Staff of the Division informed the Subcommittee in August 1981 that a one-time agreement had been entered into with the Customs Service for that agency to assume responsibility for 300 suspected passport fraud cases. A check with the Customs Service in March 1982 disclosed that only 12 cases had been forwarded for investigation by the Division.

No agreement has ever been worked out with the U.S. Postal Service to investigate passport fraud cases in which the U.S. mails are utilized. Likewise, the Secret Service has never been asked to lend support in the area of passport fraud investigations.

In the past three years, the Office of Security within the Department has investigated approximately 100 passport fraud cases per year. The Subcommittee staff reviewed over two hundred passport fraud cases investigated by the Office of Security over the last several years, and noticed little use of proactive investigative techniques - informants are not developed and cases are not expanded beyond the complaint if no specifics are revealed. Some cases amount to no more than checking for live birth certificates and upon finding one, the investigation is closed. Other cases are closed because the Department has instructed security agents to terminate cases where they may suffer bodily harm as they have no authority to carry firearms while investigating these cases.

Decisions as to which suspected fraud cases will be investigated, to which agency the investigation will be assigned, and which cases will be closed without the benefit of investigation, are all made by the program staff of the Evaluations and Standards Division. Trained criminal investigators are not making such determinations. In the meantime, suspect passport applicants are the very indivduals whose activities should be tracked because of likely involvment with narcotics, currency trafficking, and terrorism.

U.S. Visa -- Breeding Ground for Fraud

Visas, when stamped in foreign passports, enable aliens to make temporary visits to the U.S. In the last six years, issuance of tourist and student visas to the U.S. has doubled.

There are no numerical restrictions on nonimmigrant visas for tourists and students. The pressures to snare one of these visas gives rise to tremendous crowds who line up outside consulates in Bangkok, Bogota, Hong Kong, Lagos, Manila, Port-au-Prince, Santo Domingo, and Seoul. These and other posts are ones which the State Department considers highly susceptible to fraud. Applicant misrepresentations, fraudulent use of documents to establish entitlement, impersonations, and photo substitutions in passports with valid visas are everyday occurrences. The visa itself, and a "counterfoil" feature used with it in some countries, have been successfully fabricated.

Screening an applicant desirous of a tourist visa is largely a subjective process. Consular officers must be satisfied that the applicant intends to leave the U.S. at the expiration of his temporary stay and has adequate financial resources for both the visit and the return home. Inherent problems with the visa screening process are:

- Inadequate time for consular officers to screen applicants
- Inexperience of consular officers - new recruits in the Foreign Service serve first tours of duty on the visa issuing lines
- Delegation of visa issuance authority to foreign nationals and untrained temporary employees at the embassy -- recently in Mexico City, two teenage summer employees obtained visas for aliens in return for drugs.
- Pressure to issue tourist visas to host government "referrals" without screening applicant entitlement
- Assignment of the screening process to local travel agents who check supporting documents and decide applicant eligibility

Responsibility for visa fraud investigations rests with each embassy. Fraud trends, if analyzed locally, are not transmitted to an intelligence network. Investigative files are maintained at individual embassies. According to headquarters, there is generally one foreign service officer and one or two national employees assigned to the embassy's fraud unit. The extent of fraud investigations is usually limited to interrogating the applicant and taking a sworn statement. In Mexico City, the fraud unit has no travel funds so its ability to check birth records or make inquiries about applicants is hampered. The State Department does not issue guidelines to assure that adequate resources are devoted to fraud investigations at each post.

Lie, Get Caught...And Get A Visa Anyway

Applicants will present every type of document imaginable to prove their eligibility. The easy availability of spurious "authenticated," bank statements, property ownership statements, letters verifying employment, and foreign civil documents leads consular officers to ignore documentation altogether in favor of making subjective decisions within the constraints of a three-minute interview.

Yet, even if an applicant is caught using false documents or making false representations he can still get a visa. Official State Department policy is that mispresentations of identity and eligibility are not considered material - unless the alien is excludable on the "true facts" or the misrepresentation "tends to cut off a relevant line of inquiry." So, if an applicant lies and then retracts the lie, or the lie is considered inconsequential, the Department will still issue a visa. More than likely, the applicant will tell a better story the second time which will withstand the limited scrutiny of the consular official. Such misrepresentations amount to a felony, and would be grounds to deny the applicant a visa. However, the State Department's stubborn stance in this area is often tantamount to condoning and ignoring the commission of such felonies.

IMMIGRATION & NATURALIZATION SERVICE

The Immigration and Naturalization Service determines the eligibility for admission of each person seeking entry to the U.S. and apprehends those who are in the country surreptitiously or who are in violation of their terms of entry.

This agency's lack of resources and manpower has always made its competing functions - enforcement and service - that much more difficult to carry out. The combined strength of INS' Border Patrol and internal enforcement staffs numbers only half the size of the New York City Police Department. Of the 700 INS investigators located throughout the country - far less than the number of police protecting the U.S. Capitol - only 100 are assigned full-time to fraud investigations.

According to 1980 statistics, INS presented 2,541 fraud cases to the Department of Jdstice, of which 1500 were accepted for prosecution. Included are all types of cases: false claims to U.S. citizenship, marriage fraud, and immigrant petition fraud as well as counterfeit document fraud. To better understand fraudulent document cases INS typically pursues, the Subcommittee staff canvassed all of the INS regional offices and requested copies of closed cases in which there was a document offense. None of the offices except the Chicago district were able to provide information or statistics on criminal cases relating to document misuse. (The Chicago office informed us that, in its district, 32 criminal cases relating to counterfeit documents have been accepted for Federal prosecution since January 1976. These cases have involved 50 defendants, 37 of whom have been convicted, and have resulted in the seizure of 41,960 documents.)

INS participates in the multi-agency El Paso Intelligence Center (EPIC). EPIC gathers intelligence on narcotics, aliens, and weapons smuggling. All INS closed files relating to the investigation of an alien's false claim to U.S. citizenship repose at EPIC, where an INS employee serves as the director of the False Documents Files. Cases in which an alien uses phony identification for reasons other than a claim to U.S. citizenship are not stored or indexed at EPIC but remain in field offices, so there is a large gap in intelligence gathering capabilities. Also, there is an 18-month delay before closed cases reach EPIC from the field and are indexed into the files. Once cases are received and stored, no further analysis of the investigative intelligence is undertaken. No attempts are made to identify geographic trends as to the sources or distribution network of bogus documentation, or to establish correlation between various counterfeit documents. The role of the senior INS official at EPIC is secondary to his obligation to participate in the Center's narcotics intelligence function.

Staying In The U.S. With The Right Documents...

In 1981, INS estimates that it processed 291 million individuals at ports of entry; one million were denied admission to the U.S. Cross-trained Customs inspectors work with INS to determine the authenticity of entry documents presented as well as the bona fides of the individual presenting the documentation.

Temporary visitors to the U.S. fill out an INS arrival/departure record. INS keeps the original form, known as an I-94, and the visitor retains a duplicate copy. The I-94, which indicates the alien's name, citizenship, passport number, and status upon admission, also indicates whether the bearer is a refugee or is authorized to work in the U.S. With a refugee or work authorized designation, the I-94 becomes a much coveted form of identification as the bearer is now entitled to all the same federal benefits as a U.S. citizen.

However, the I-94 is so lacking in security and integrity features that it is legally permissable for commercial airlines to print their own versions of the form for airline passengers. The stamp and ink INS uses to note "refugee" or "work authorized" status are easily duplicated.

Theoretically, the arrival/departure record system was intended to provide INS with information on the number of temporary visitors to the U.S., where they are located, and whether they are in compliance with the conditions of their admission. The visitor's copy of the I-94 is to be surrendered at the time of departure, and it is then to be matched with the original record INS maintains. Yet, the only way INS can collect the I-94s from departing aliens is to delegate this responsibility to commercial airlines. Huge backlogs in reconciling duplicate with original I-94s - now hovering at 32 million unprocessed forms - effectively eliminates this system as a control mechanism.

Lastly, INS' enforcement posture is not directed towards apprehending aliens who overstay their condition of entry. INS acknowledges it does not know the number of aliens who have overstayed, and it says it lacks the resources to investigate those it has identified.

Aliens eligible to reside permanently in the U.S. are issued alien registration cards (I-151s) known as "green" cards. Since 1946, INS has issued 17 versions of this card. Each time a security feature was compromised a new version with better security features was introduced; however, old versions of the card have never been recalled and replaced. So, all 17 versions of the "green" card are in circulation today and all are accepted as valid. And as a result, there is a large market for fabricated or altered, old-style "green" cards.

In July 1980, INS began to operate the Alien Documentation and Telecommunications System (ADIT) which provides a new, "counterfeit-proof" alien registration card along with an automated data base capable of verifying information about each cardholder. According to the General Accounting Office, projected development and operation costs of ADIT are $67 million through 1984. Several million ADIT cards have been issued to permanent resident aliens at a cost of approximately $30 per card.

The effectiveness of the ADIT card system is called into question by a number of factors:

- A security feature of the card is encrypted data which could be used to determine card validity as well as the user's bona fides. But, no optical scanners to decode the encryptions are available to INS or Customs inspectors at ports of entry. Therefore, neither the counterfeiters nor INS can read the cards.
- Alien registration cards issued prior to ADIT (I-151s - all 17 versions) have not been recalled.
- INS is 9 months behind schedule in issuing ADIT cards to arriving immigrants. In the meantime, new arrivals are given the more easily compromised form I-94 as personal identification and authorization to work.

Additionally, ADIT was not intended to effect or deter those entering the country illegally, those making false claims to U.S. citizenship, or those entering with temporary visas.

...And Leaving With the Benefits

The fraud resistance of alien registration cards is only one issue. Another is INS' inability to verify alien registration numbers for benefit-disbursing agencies. The Social Security Administration reports that INS is unable to verify within a reasonable period of time whether applicants, presenting alien registration cards in order to obtain Social Security cards and benefits, are in the U.S. legally.

By regulation, the I-94 is accepted as proof of identity for food stamp benefits. Yet, this form does not have any serial number which can be cross-referenced with INS records. And administrators of California's food stamp program have knowingly defied Agriculture Department regulations requiring that alien registration numbers on "green" cards be checked before benefits are granted. California grants food stamp benefits without such checks because they claim INS takes months to make the necessary checks.

Because of the apparent systems weaknesses which enable illegal aliens to obtain access to federal benefits, the Subcommittee staff wondered about procedures to ensure that apprehended and removed illegal aliens do not continue to receive benefits.

Apprehended aliens usually leave the U.S. under conditions of voluntary departure - 820,357 did so in 1981. But, INS does not include the names or other identity information of those departing voluntarily in its intelligence system to alert border inspectors should any of these persons seek to return. Likewise, agencies such as the Social Security Administration never learn of these apprehensions, and thus take no action to determine if departees should have their benefits terminated.

Another 16,654 aliens were ordered formally deported in 1981. Only those deportees who engage in major crimes or are recidivists are included in the INS intelligence system. By regulation, aliens deported by INS cannot receive social security benefits after deportation.

In March 1982, the Inspector General of the Department of Health and Human Services conducted a limited review of SSA's alien nonpayment system and found that INS cannot verify the number of deportation notices forwarded to SSA, and SSA cannot account for all notices received. To date, less than 4% of the aliens deported in 1981 have had their benefits suspended. Of the 74 cases examined in detail, 23 erroneous payments were found, totaling payments of $111,600.

THE SOCIAL SECURITY ADMINISTRATION

The Social Security Administration has issued 270 million social security cards and numbers to date. Over 1300 issuing offices respond to 12 million requests for new and duplicate social security cards yearly.

Use of the social security card as a means of personal identification has expanded far beyond its original purpose, to become the sine qua non of identifiers. For example, the Federal government uses the number as an identifier in tax, welfare, and debt collection programs. In many cases, by law or regulation, it must be provided to get a job, to open a bank account, to enroll in college, to register to vote, and to argue a case before the U.S. Supreme Court. Additionally, several states since 1976 have used the social security number to administer driver's license and motor vehicle registration laws.

SSA's policy during the early years of its program was to issue numbers based only on an individual's statement about his/her name, place of birth, and parent's names. Since 1978, the agency has issued social security numbers under tighter procedures. Now, all applicants for an original number must provide evidence of age, identity, U.S. citizenship or alien status, and applicants 18 years or older must undergo an in-person interview. The evidentiary documents of identity and citizenship that SSA relys on are the passport or visa, alien registration cards, driver's license, and birth certificates.

SSA recently began a program to train its clerks to make determinations of the genuineness of evidentiary documents. Both the General Accounting Office and SSA's Inspector General have criticized the evidence certification process as one lacking controls and supervision. In 37 states, local welfare office clerks process applications for social security cards without the benefit of any training in document fraud detection. Under a cooperative agreement with the states, SSA allows welfare offices to review evidentiary documents and accept applications for beneficiaries who need a social security number in order to be eligible for aid. But, the state welfare offices will not be participating in SSA's new training program on document fraud detection.

Fraud detection and prevention falls to the SSA program integrity division which has approximately 120 investigators across the country. Abuses of social security benefit programs also are investigated by this division. From the Subcommittee's review of closed cases, it appears that the program integrity staff has jurisdiction over singular instances of fraud and program abuse, whereas the Inspector General handles cases involving large-scale schemes and employee malfeasance.

The Subcommittee staff was told by field agents that there has been little guidance emanating from SSA Headquarters to the district offices on how to control fraud and misuse. In the void, a few district offices have set up commendable _ad hoc_ procedures to detect fraud before cards are issued. For instance, a June 1981 bulletin was distributed to all social security district offices in the Boston region listing 33 separate serial numbers identified by INS as appearing on counterfeit alien registration cards (I-151). These cards were known to have been fabricated in California. In the Roxbury, MA office a clerk placed the bulletin on her desk and found that her first applicant of the day produced a counterfeit I-151 with one of the listed serial numbers. INS was called and the illegal alien was apprehended. This same situation has been repeated many times.

In another initiative, a New York social security office reviewed Puerto Rican birth certificates and found that 30% of all Puerto Rican birth certificates submitted in support of social security card applications were fraudulent. As a result, the New York region incorporated a procedure to verify all Puerto Rican birth certificates prior to social security card issuance.

The Invisible Distinction Between Work and Non-Work Cards

Since 1974, SSA has been issuing a non-work social security card to visitors and other temporary resident aliens who need the social security number to open a bank account or enroll in school. The cards and numbers for non-work purposes are identical to those issued to U.S. citizens.

According to its Inspector General, SSA has not provided any deterrent to non-work social security cards being used to gain employment. Instructions to the field offices for issuing these numbers are unclear - particularly troubling in view of the 1300% increase in the number of non-work cards issued over the past six years. By examining a sampling of social security card applications for the last quarter of 1979, the Inspector General found in February 1981 that in two cities studied, New York and Washington, almost half those obtaining social security numbers were aliens. Of the social security numbers issued, 12% were issued as work authorization numbers when in fact INS records did did not indicate the aliens were authorized to work. INS could find no record at all for 8% of the aliens who were issued numbers. Another check revealed that one-third of all those issued non-work social security cards had earnings posted to their summary earnings records.

As a corollary concern, many aliens who work here illegally will be eligible to collect retirement benefits once they return home because, as SSA program administrators explained to Subcommittee staff, a payee into the system, regardless of status, is entitled to retirement benefits. Currently, almost $1 billion is sent overseas annually to SSA beneficiaries. At least 52% of the recipients are aliens and their dependents. It is unknown how many worked in the U.S. illegally. Of equal concern is the fact that there are no sanctions against overseas beneficiaries who furnish false information, fail to report events bearing on their continuing entitlement, or conceal information in order to obtain or increase benefits.

In 1982, the Subcommittee was informed that SSA would begin printing a legend on the face of non-work social security cards to indicate they are not valid for work purposes. Non-work social security numbers, however, will continue to be the same as all others.

The Number Is The Key

While the social security card is entirely lacking in security features and is the simplest document to fabricate, the Subcommittee staff believes a problem of greater magnitude is that social security numbers are too easy to acquire legitimately - often in multiple - and the numbers themselves are not verifiable due to SSA's implementation of Privacy Act restrictions.

The number issuance system does not have an audit trail capability to easily link the card issued with SSA's storage record - no identifying code is printed on the card and SSA record. This means that any imposter can use someone else's real social security number.

However, the primary aspect of the numbering system which makes it so vulnerable to fraud is SSA's position that, under the Privacy Act and with limited computer capability, it is severely limited in its ability to verify or validate social security numbers used by recipients in federal and state programs. Thus, abusers can use virtually any nine-digit number to obtain benefits from any agency other than SSA, with the assurance that bogus numbers will sail through the system. Said one benefit administrator to us: "So long as the person standing before us gives us a social security number, we don't even bother to ask additional questions. We accept him for who he says he is at face-value."

To further illustrate, the Subcommittee staff learned that the Agriculture Department's Inspector General requested a validation match of 750,000 social security numbers used by food stamp recipients in Illinois. SSA found that 130,000 numbers were invalid. Although it has the capability to do so, SSA would not disclose the reason why a particular number was invalid. In the end, the Inspector General was no closer to knowing whether there are 130,000 bogus numbers used in the Illinois program, whether multiple numbers were cross-referenced for the same individuals, or whether the problem is simply one of number transpositions and other data entry errors.

Similarly, while SSA automatically verifies social security numbers before it issues social security benefits, the agency does not notify other agencies of bad numbers identified or instances in which a legitimate number is used by an imposter.

According to SSA, the Privacy Act allows it to disclose social security number information for law enforcement purposes under limited conditions such as a national emergency or when a serious crime such as murder or kidnapping has been committed. Additionally, SSA administrators expressed their concern that routine referencing of number information to other law enforcement agencies would require money and manpower to perform, and would detract from SSA's other functions.

Administrators of the benefit programs, particularly the Inspectors General who oversee these programs, told Subcommittee staff they would welcome the opportunity to verify social security numbers used by recipients and would bear SSA's costs for providing such information.

* * * * * *

Results of a Subcommittee project to identify the use of certain fictitious and questionable identities in various federal programs - such as food stamps, filing of personal income tax returns, compliance with provisions of the Bank Secrecy Act, student loans and grants, and social security Title II and Aid to Families with Dependent Children - will be presented at a later hearing.

STATEMENT OF
WILLIAM T. MURPHY

MR. CHAIRMAN, MY NAME IS WILLIAM T. MURPHY, AND I AM AN ASSISTANT POSTAL INSPECTOR IN CHARGE WITH AN OFFICE AT THE CITY POST OFFICE IN WASHINGTON, D.C. MY AREA OF RESPONSIBILITY INCLUDES POSTAL CRIMES COMMITTED IN MARYLAND, VIRGINIA AND THE DISTRICT OF COLUMBIA. I APPRECIATE THE OPPORTUNITY TO APPEAR HERE TODAY TO DISCUSS THE POSTAL INSPECTION SERVICE AND ITS ROLE IN CERTAIN CRIMINAL INVESTIGATIONS. I UNDERSTAND THAT YOU ARE SPECIFICALLY INTERESTED IN OUR INVESTIGATIONS INVOLVING THE ACTIVITIES OF SOME MEMBERS OF THE BLACK HEBREW ISRAELITES WHO HAVE CRIMINALLY ATTACKED THE POSTAL SERVICE AND MISUSED THE POSTAL SYSTEM. I ALSO UNDERSTAND THAT YOU HAVE A PARTICULAR INTEREST IN FRAUDULENT IDENTIFICATION ITEMS AND THE CRIMINAL USAGE OF SUCH ITEMS.

BEFORE I BEGIN TO DISCUSS THESE MATTERS, LET ME BRIEFLY OUTLINE THE RESPONSIBILITIES OF THE POSTAL INSPECTION SERVICE. AS THE INVESTIGATIVE UNIT OF THE POSTAL SERVICE, THE INSPECTION SERVICE HAS THREE PRIMARY FUNCTIONS: (1) TO PROVIDE FOR THE SECURITY OF POSTAL EMPLOYEES, CUSTOMERS, FACILITIES, AND THE MAIL; (2) INTERNAL AUDIT SERVICES; AND (3) THE INVESTIGATION OF CRIMES AGAINST THE POSTAL SERVICE SUCH AS ROBBERY, ASSAULTS, BURGLARIES AND THEFT OF MAIL OR PROPERTY AND CRIMES WHEREIN THE POSTAL SERVICE IS USED TO FURTHER AN ILLEGAL ACT SUCH AS FRAUD AND THE MAILING OF BOMBS.

I WOULD LIKE NOW TO ADDRESS THE QUESTION OF THE CRIMINAL ACTIVITIES OF CERTAIN MEMBERS OF THE BLACK HEBREW ISRAELITES. IT MUST BE UNDERSTOOD THAT WE ARE NOT INVESTIGATING THE GROUP BUT RATHER CRIMES AGAINST THE POSTAL SERVICE COMMITTED BY PERSONS KNOWN TO BE MEMBERS OF THE ORGANIZATION.

DURING APRIL AND MAY OF 1981, THERE WERE THEFTS FROM 16 POSTAL JEEPS IN WASHINGTON, D.C., AND ATTACKS ON 47 COLLECTION/RELAY BOXES IN BALTIMORE. OUR INVESTIGATION DEVELOPED INFORMATION INDICATING THE INVOLVEMENT OF A NUMBER OF BLACK HEBREW ISRAELITES IN THE THEFTS. ONCE THE SCOPE OF THE THEFTS AND OF RELATED OFFENSES BECAME APPARENT, AN INFORMAL TASK FORCE OF INTERESTED AGENCIES AND ORGANIZATIONS WAS FORMED IN JUNE 1981, UNDER THE GUIDANCE OF THE U. S. ATTORNEY'S OFFICE IN WASHINGTON, D.C.

WHILE OUR EFFORTS ARE DIRECTED TOWARD THE ELIMINATION OF THEFTS FROM MAILBOXES AND POSTAL VEHICLES AND TOWARD PREVENTING THE USE OF THE MAILS FOR ILLEGAL PURPOSES, OUR INVESTIGATIONS OFTEN DEVELOP INFORMATION AND EVIDENCE PERTAINING TO OTHER CRIMES. WHEN A QUANTITY OF MAIL IS STOLEN, THE CONTENTS OF THE MAIL INCLUDES GOVERNMENT, PERSONAL AND COMMERCIAL CHECKS, CREDIT CARDS AND, NOT INFREQUENTLY, SUCH VALUABLES AS AIRLINE TICKETS, NEGOTIABLE BONDS AND THE LIKE. ABOVE AND BEYOND ANY INTRINSIC VALUE THE STOLEN MAIL MAY HAVE, SOPHISTICATED THIEVES ARE VERY INTERESTED IN OBTAINING INFORMATION RELATING TO CREDIT STATUS, BANK ACCOUNT NUMBERS, CREDIT REFERENCES, CHECKING ACCOUNT BALANCES, ETC. THIS INFORMATION FORMS THE BASIS FOR SCHEMES TO CONVERT STOLEN CHECKS TO CASH AND TO MAKE USE OF STOLEN CREDIT CARDS. PROBABLY THE MOST COMMON MEANS OF CONVERTING LARGE NUMBERS OF STOLEN CHECKS TO CASH IS THROUGH A "SPLIT DEPOSIT SCHEME." IN THIS TYPE OF SCHEME, ACCOUNTS ARE ESTABLISHED IN ONE OR MORE BANKS. WITHDRAWALS DEPLETE THE ACCOUNTS BEFORE THE BANKS BECOME AWARE OF THE ORIGINS OF THE STOLEN CHECKS. CREDIT CARDS CAN AND HAVE BEEN OBTAINED THROUGH USE OF INFORMATION OBTAINED FROM STOLEN MAIL.

WE HAVE DEVELOPED EVIDENCE INDICATING THAT SOME INDIVIDUALS HAVE OBTAINED EMPLOYMENT SOLELY FOR THE PURPOSE OF STEALING VALUABLE ITEMS. FOR EXAMPLE: (1) A NEW TRAVEL AGENCY

EMPLOYEE MIGHT FAIL TO REPORT FOR WORK ONE MORNING, AND A SUBSEQUENT INVENTORY WILL SHOW A LARGE NUMBER OF BLANK AIRLINE TICKETS MISSING; OR (2) A NEW BANK TELLER WILL LEAVE SUDDENLY WITH A NUMBER OF BANK CHECKS AND PERHAPS A SUPPLY OF BANK LETTERHEAD TO BE USED LATER FOR REFERENCE LETTERS IN ESTABLISHING CREDIT ACCOUNTS.

A PIECE OF BOGUS IDENTIFICATION IS AN INTERESTING ITEM. IT HAS THE UNIQUE CAPACITY, IN SOME INSTANCES, OF BEING ABLE TO PRODUCE OFFSPRING WITHOUT A MATE. FOR EXAMPLE, A BOGUS DRIVER'S LICENSE CAN BE USED TO OBTAIN OTHER FORMS OF IDENTIFICATION SUPPORTING THE IDENTITY OF THE CHECK CASHER OR CREDIT CARD USER.

APPLYING FOR LEGITIMATE TYPES OF IDENTIFICATION CAN BE A LENGTHY PROCESS. FOR THE IMPATIENT THIEF, OR ONE WHOSE SCHEME IS ON A SCHEDULE, IT MAY BE MORE DESIRABLE TO DUPLICATE AN ASSORTMENT OF IDENTIFICATION. SOME ID'S THAT ARE CLOSELY CONTROLLED BY THE ISSUERS REQUIRE CONSIDERABLE INGENUITY TO DUPLICATE. SOME MEMBERS OF THIS GROUP HAVE BEEN KNOWN TO STEAL BLANK DRIVER'S LICENSE FORMS, BLANK BIRTH CERTIFICATES, EMPLOYEE ID'S, AND PHOTOGRAPHING AND LAMINATING MACHINERY.

INCIDENT TO OUR WASHINGTON INVESTIGATION, A FEDERAL SEARCH WARRANT WAS SERVED ON A RESIDENCE IN HYATTSVILLE, MD, ON JUNE 2, 1981. THIS SEARCH WARRANT RESULTED IN THE RECOVERY OF APPROXIMATELY 3,000 PERSONAL, COMMERCIAL AND GOVERNMENT CHECKS, OVER 100 CREDIT CARDS, 63 PASSPORTS, OVER 500 BIRTH CERTIFICATES, APPROXIMATELY 500 OTHER ITEMS OF IDENTIFICATION, AND 850 STOLEN AIRLINE TICKETS. ALSO RECOVERED WERE THE STATIONERY AND LETTERHEAD OF SEVERAL CONGRESSMEN AND SENATORS AND NOTES EVIDENTLY TAKEN DURING A LECTURE ON HOW TO PERPETRATE CERTAIN "PAPER" CRIMES.

AMONG THE ITEMS ATTRACTIVE TO MAIL THIEVES ARE FOOD STAMPS AND AUTHORIZATION TO PURCHASE FOOD STAMPS (ATP) CARDS. THERE IS A MARKET FOR BOTH, AND WE HAVE, IN SOME INSTANCES, IDENTIFIED SUSPECTS BELIEVED TO BE MEMBERS OF THE BLACK HEBREW ISRAELITES.

OVER THE PAST DECADE OR SO, INTER-AGENCY AND INTRA-AGENCY LAW ENFORCEMENT COMMUNICATION HAS IMPROVED A GREAT DEAL. NEVERTHELESS, IT IS DIFFICULT TO DEAL WITH A CRIMINAL ELEMENT OF A TRANSIENT NATURE. THE CRIMES INVOLVED ARE OFTEN SHORT-LIVED AND DIFFICULT TO ASSOCIATE WITH A PARTICULAR GROUP UNTIL VIEWED IN AN OVERALL PERSPECTIVE.

THOSE MEMBERS OF THE BLACK HEBREW ISRAELITES ENGAGED IN CRIMINAL ACTIVITIES ARE VERY SPECIALIZED. SOME MEMBERS DO NOTHING BUT INSTRUCT OTHER MEMBERS IN THE COMMISSION OF CRIMES, THUS INCREASING THE NUMBER OF INDIVIDUALS THAT LAW ENFORCEMENT OFFICERS MUST IDENTIFY AND APPREHEND. OTHER MEMBERS STEAL MAIL AND THEN PASS THE STOLEN ITEMS ON TO OTHER INDIVIDUALS RESPONSIBLE FOR PREPARING FICTITIOUS IDENTIFICATION. THE NEGOTIABLE ITEMS ARE THEN GIVEN TO OTHERS WHO OPEN BANK ACCOUNTS AND/OR NEGOTIATE THE STOLEN ITEMS. OFTEN THE STEPS IN THIS PROCESS ARE ACCOMPLISHED IN CITIES OTHER THAN WHERE THE INITIAL THEFT TOOK PLACE. SOME MEMBERS ARE ASSIGNED THE TASK OF RELOCATING INDIVIDUALS WHO HAVE BEEN IDENTIFIED BY POLICE. THEY HAVE BEEN QUITE SUCCESSFUL IN HELPING CRIMINALS TO LEAVE THE UNITED STATES, WITH ISRAEL A FAVORITE DESTINATION. WE HAVE FOUND THE MEMBERS TO BE QUITE LOYAL TO EACH OTHER AND, TO DATE, NOT A SINGLE ONE, EITHER ARRESTED OR CONVICTED, HAS CHOSEN TO COOPERATE WITH AUTHORITIES.

ANOTHER PROBLEM THAT MUST BE DEALT WITH IN AN INVESTIGATION OF THIS TYPE IS THAT OF PRESENTING CASES FOR PROSECUTION. NO ONE PROSECUTOR IS AWARE OF THE TOTAL PICTURE, AND IT BECOMES NECESSARY TO EXPLAIN THE MAGNITUDE OF THE INVESTIGATION EACH TIME A DIFFERENT ASSISTANT U. S. ATTORNEY OR STATE PROSECUTOR IS INVOLVED.

THE FOLLOWING STATISTICS ON THE INFORMAL TASK FORCE OPERATIONS RELATE TO POSTAL OFFENSES:

ARRESTED	28
CONVICTED AND SENTENCED	9
DISMISSED	2
COURT CASES PENDING	9
FUGITIVES	8
OUTSTANDING WARRANTS	5

I AM NOT IN POSSESSION OF THE COMPARABLE STATISTICS FOR THE OTHER AGENCIES INVOLVED IN THE INFORMAL TASK FORCE OPERATION.

SENTENCES THAT HAVE BEEN IMPOSED THUS FAR RANGE FROM PROBATION TO EIGHT YEARS' IMPRISONMENT. LIGHT SENTENCES HAVE BEEN GIVEN TO SOME INDIVIDUALS DUE TO THEIR HAVING NO PRIOR CRIMINAL RECORD. STIFFER SENTENCES HAVE BEEN IMPOSED ON THOSE WITH CRIMINAL RECORDS.

MAJOR FEDERAL AGENCIES INVOLVED IN THE INVESTIGATION OF THESE CRIMINAL ACTIVITIES HAVE BEEN THE POSTAL INSPECTION SERVICE, THE F.B.I., THE STATE DEPARTMENT AND, TO SOME EXTENT, THE SECRET SERVICE. LOCALLY, THERE HAS BEEN EXCELLENT COOPERATION BETWEEN THESE AGENCIES, AND THE LINES OF COMMUNICATION ARE WELL ESTABLISHED. LIAISON HAS BEEN RECENTLY INITIATED BETWEEN SECRET SERVICE AGENTS AND POSTAL INSPECTORS IN CITIES THROUGHOUT THE COUNTRY, AND WE HAVE ALMOST DAILY CONTACT WITH STATE DEPARTMENT PERSONNEL.

AT THE PRESENT TIME, INTELLIGENCE RECEIVED INDICATES THAT CRIMINAL ACTIVITIES ATTRIBUTABLE TO SOME MEMBERS OF THE BLACK HEBREW ISRAELITES EXIST IN THE FOLLOWING CITIES: CHICAGO, ATLANTA, CINCINNATI, DETROIT, MIAMI, BALTIMORE, NEW YORK, KANSAS CITY, WASHINGTON, D.C., AND SAN FRANCISCO. MOST OF THE VIOLATIONS THAT HAVE COME TO OUR ATTENTION IN THESE CITIES INVOLVE BANK FRAUD, STOLEN CHECKS AND CREDIT

CARDS, AIRLINE TICKETS AND PASSPORT FRAUD. WITHIN THE PAST FEW MONTHS, A CREDIT CARD FRAUD SCHEME IN THE CINCINNATI AREA HAS BEEN ASSOCIATED WITH MEMBERS OF THE GROUP IN WASHINGTON, D.C. FEDERAL IDENTIFICATION DOCUMENTS ARE FREQUENTLY USED IN CASES OF PASSPORT FRAUD. IN ALMOST EVERY INSTANCE WHERE A MEMBER OF THE GROUP HAS BEEN IDENTIFIED AS A SUSPECT, THERE HAS BEEN A PASSPORT ON FILE EITHER IN THE SUSPECT'S NAME WITH FRAUDULENT INFORMATION APPEARING ON THE APPLICATION OR A PASSPORT IN A FICTITIOUS NAME. STATE DEPARTMENT INVESTIGATORS HANDLE THESE VIOLATIONS ON A CASE-BY-CASE BASIS BECAUSE IT IS VERY DIFFICULT TO IDENTIFY A FRAUDULENT PASSPORT APPLICATION WHEN IT IS INITIALLY PRESENTED.

THE CRIMINAL ACTIVITIES OF SOME MEMBERS OF THE BLACK HEBREW ISRAELITES ENCOMPASS SO MANY DIFFERENT CRIMES AND INVESTIGATIVE JURISDICTIONS THAT ANY ONE AGENCY'S EFFORTS ARE LIMITED. FOR THIS REASON AND TO FACILITATE THE RETURN OF FUGITIVES RESIDING IN ISRAEL, WE HAVE INITIATED DISCUSSIONS WITH THE DEPARTMENT OF JUSTICE TO CONSIDER A MORE FORMAL TASK FORCE APPROACH TO THE SITUATION. WE WILL CONTINUE TO CONCENTRATE ON THE ELIMINATION OF POSTAL CRIMES AND TO SHARE INTELLIGENCE INFORMATION WITH OTHER INTERESTED AGENCIES.

I WOULD LIKE TO COMMENT IN CLOSING THAT WE BELIEVE THE PROBLEM OF BOGUS IDENTIFICATION DESERVES CLOSE ATTENTION, AND THE POSTAL SERVICE HAS FOR MANY YEARS CONDUCTED A CAMPAIGN TO ALERT THE BUSINESS COMMUNITY TO THE NEED FOR CAUTION IN FINANCIAL TRANSACTIONS. WE DEVELOPED AND COORDINATED A CRIME PREVENTION PROGRAM OFFERING GRAPHICS, GUEST SPEAKERS AND AUDIO VISUAL AIDS TO THOSE WHO DESIRE TO EDUCATE THEIR EMPLOYEES AND THEMSELVES CONCERNING THE PROBLEM OF FRAUDLENT IDENTIFICATION DOCUMENTS.

ONCE AGAIN, I THANK YOU FOR THE OPPORTUNITY TO TESTIFY BEFORE THIS SUBCOMMITTEE, AND I WILL BE HAPPY TO RESPOND TO ANY QUESTIONS YOU MAY HAVE.

TESTIMONY
OF
DANIEL F. LANE
OFFICE OF INSPECTOR GENERAL
DEPARTMENT OF HEALTH AND HUMAN SERVICES
AND
WALTER T. HEMPEL, II
IMMIGRATION AND NATURALIZATION SERVICE
DEPARTMENT OF JUSTICE

BEFORE THE

SENATE PERMANENT SUBCOMMITTEE
ON INVESTIGATIONS

JUNE 16, 1982

Good Morning. I am Daniel F. Lane, an Inspector with the Office of Inspector General (OIG), Department of Health and Human Services (HHS). Present with me is Walter T. Hempel, II, a Criminal Investigator with the Immigration and Naturalization Service (INS) in Newark, New Jersey. It is our pleasure to respond to your request for information relating to Project Baltimore.

Project Baltimore is a joint investigative effort by OIG/HHS and the INS with assistance from the Social Security Administration (SSA). Project Baltimore is a program designed to investigate a wide variety of false identification frauds involving illegal aliens and various identity documents. Our investigations have involved visas, immigration documents, birth certificates and social security numbers (SSN's) and cards, both genuine and counterfeit.

Attached to our statement is a Table which reflects the number of new SSN's issued and illustrates the magnitude of the problems facing SSA.

Since the early 70's, SSA has periodically tightened the evidentiary requirements of age, identity and citizenship or alien status from SSN applicants.

Since 1974, SSA has required identity documents to be submitted with SSN applications. Illegal applicants or persons who were in the business of supplying these documents, were faced with a dilemma....either cease their activities or change their modus operandi. Those who continued now had to choose between lying to an SSA employee, manufacturing false identity documents, bribing an SSA employee or counterfeiting SSN cards. Based on our investigations, all four options appear to be popular methods to fraudulently obtain SSN cards.

The ramifications of SSN fraud are concentrated into four areas, namely, employee corruption, illegal aliens, benefit fraud and the creation of false statistical data.

As an outgrowth of a major investigation which resulted in the conviction of nine individuals, including an SSA employee, Project Baltimore was created. Variations of the vulnerabilities uncovered by this one case were identified throughout the country. Project Baltimore utilizes a task force approach to investigate numerous identity documents. There are four major operations of this project. First, to pursue successful prosecutions, a small group of highly skilled and motivated individuals conducted investigations. To date Project Baltimore type investigations have resulted in 114 convictions and the criminal indictment of 4 others. One hundred twenty-nine (129) other frauds are currently under investigation. Sentences have ranged from probation to 5 years imprisonment and fines as high as $10,000. Judgements against corporations have totaled over $575,000. Second, the project has exposed system weaknesses in the issuance procedures of identity documents. This has lead to a tightening of the process and regulations. Third, it provides training to various government agencies in fraud detection and prevention. Finally, Project Baltimore staff developed innovative and sophisticated investigative techniques to identify fraud. However, much more needs to be done.

The frauds uncovered by the project have a direct, but largely unknown, impact on government benefit programs. We have chosen four Project Baltimore type investigations to illustrate the ease of obtaining identity documents and some of the ramifications to government programs. The cases form a slide presentation which we would now like to show.

CASE 1

Migrant Ministry

New York, New York

(False Statements and Counterfeit Immigration Documents)

From August 1, 1979 until May 23, 1980 when a search warrant was executed, the Migrant Ministry operated in the New York City area. This bogus charitable organization was operated by Robert Walker, AKA Bishop Demetrius and John Russe, AKA Father John.

IN THEIR SCHEME, THEY CONSPIRED TO DEFRAUD SSA AND INS. WALKER AND BUSSE MASQUERADED AS PRIESTS AND SET UP A SERIES OF SPECIOUS CHARITABLE ORGANIZATIONS. THESE ORGANIZATIONS WERE IN ACTUALITY FRONTS FOR THE DISTRIBUTION OF FRAUDULENT SOCIAL SECURITY CARDS AND IMMIGRATION DOCUMENTS TO ILLEGAL ALIENS. THE ILLEGAL ALIENS PAID FEES FOR THESE DOCUMENTS RANGING INTO THE THOUSANDS OF DOLLARS.

AT A JURY TRIAL, BOTH WERE CONVICTED OF 26 COUNTS EACH FOR CONSPIRACY TO VIOLATE LAWS RELATING TO THE HARBORING OF ILLEGAL ALIENS, MAIL FRAUD, VISA FRAUD, FALSE STATEMENTS AND FALSE CLAIMS TO UNITED STATES CITIZENSHIP.

ROBERT WALKER WAS SENTENCED TO 4 YEARS INCARCERATION AND A $10,000 FINE. JOHN BUSSE WAS SENTENCED TO SERVE 3 YEARS IN FEDERAL PRISON AND FINED $5,000.

THIS CASE DEMONSTRATES THE EASE WITH WHICH SOME IMMIGRATION DOCUMENTS CAN BE COUNTERFEITED. THESE FALSE DOCUMENTS CAN THEN BE PRESENTED TO SSA FOR THE ISSUANCE OF GENUINE SOCIAL SECURITY NUMBERS.

FEDERAL AGENCIES MUST REALIZE THAT ANY IDENTITY DOCUMENT THEY MAY ISSUE FOR THEIR OWN USE WILL BE PRESENTED TO OTHER GOVERNMENT UNITS. THE DOCUMENT IS GENERALLY CONSIDERED TO BE VALID AND THE ISSUING AGENCY IS RARELY CONTACTED FOR VERIFICATION.

CASE 2

REGINA TRAVEL BUREAU
GARFIELD, NEW JERSEY
(BRIBERY OF AN SSA EMPLOYEE)

JOANNE BERNIUS, AN SSA EMPLOYEE AT THE PASSAIC, NEW JERSEY DISTRICT OFFICE ADMITTED TO RECEIVING BRIBES FROM THE OWNERS OF THE REGINA TRAVEL BUREAU AND BOCZNIEWITZ IMMIGRATION AND TRAVEL SERVICE. THESE BRIBES TOTALED $25,000 OVER A 4 YEAR PERIOD. IN RETURN FOR

THE BRIBES, BERNIUS PROCESSED OVER 1,100 FRAUDULENT APPLICATIONS FOR SOCIAL SECURITY NUMBERS. THE RECIPIENTS OF THE SOCIAL SECURITY NUMBERS WERE NONIMMIGRANT TOURISTS WHO PAID A FEE AVERAGING $100 PER CARD. THE CARDS WERE USED TO SECURE UNAUTHORIZED EMPLOYMENT AND FEDERAL BENEFITS. A TOTAL OF NINE INDIVIDUALS WERE CONVICTED AS A RESULT OF THIS INVESTIGATION.

THE INVESTIGATION ALSO UNCOVERED WIDESPREAD FRAUD IN THE ISSUANCE OF VISAS. FRAUDULENT AFFIDAVITS OF SUPPORT WERE USED AS EVIDENCE TO SECURE VISAS. OFTEN THE AFFIANT WAS A FICTITIOUS INDIVIDUAL. BOTH TRAVEL AGENCIES ALSO SOLD THESE DOCUMENTS FOR $100 EACH. IT IS ESTIMATED THAT THE 2 TRAVEL AGENCIES MADE OVER $250,000 BY SELLING FRAUDULENT AFFIDAVITS OF SUPPORT AND SOCIAL SECURITY CARDS. FRAUD AGAINST GOVERNMENT BENEFIT PROGRAMS WAS ALSO FOUND.

THE OWNER OF THE REGINA TRAVEL BUREAU ADMITTED THE FOLLOWING SCHEME. SHE FRAUDULENTLY OBTAINED SSN'S FROM BERNIUS FOR INDIVIDUALS WHO RESIDED IN A FOREIGN COUNTRY. THESE INDIVIDUALS HAD NEVER BEEN IN THE U.S., NOR DID THEY PLAN TO BE IN THE FUTURE. THE SUBJECT WOULD RENT THESE SSN CARDS TO ILLEGAL ALIENS WHO WORKED USING THE NAMES ON THE SSN CARDS. THE ALIENS WOULD RETURN THE SSN CARDS TO HER AT THE END OF THE YEAR ALONG WITH THEIR W-2 FORMS. SHE WOULD THEN FILE INCOME TAX RETURNS WITH THE IRS AND ATTACH THE W-2 FORM. SHE WOULD NEGOTIATE THE REFUND CHECKS. THIS WAS HOW SHE RECEIVED REIMBURSEMENT FOR RENTING THE SSN CARDS. INCLUDED IN THE REFUND CHECKS WERE EARNED INCOME TAX CREDIT MONIES. THIS PROGRAM ADMINISTERED BY IRS PROVIDES UP TO $500 IN ADDITION TO THE NORMAL REFUND FOR THOSE WHO MAKE $10,000 OR LESS. ILLEGAL ALIENS ARE NOT PERMITTED TO RECEIVE THIS BENEFIT. HOWEVER, IRS DOES NOT CHECK THE IMMIGRATION STATUS OF THOSE WHO APPLY FOR THIS BENEFIT. OUR SUBJECT WAS DEFRAUDING IRS, BUT THE LONG-TERM GOAL OF THE SCHEME WAS TO ILLEGALLY OBTAIN SSA RETIREMENT BENEFITS.

Employers were paying FICA taxes based on the name and SSN used by the illegal alien. IRS tax returns filed by the subject could later be used fraudulently to substantiate that the person residing in the foreign country had actually worked in this country. When the necessary prerequisites for retirement benefits were met, SSA would pay these benefits to a person who was not entitled to receive them. This type of fraud is very difficult to detect since State employment, IRS and SSA records would indicate that payment of the benefits was proper.

In addition about $100,000 in unemployment compensation benefits from the State of New Jersey was paid to foreign tourists who received social security cards through the Regina Travel scheme. An additional investigation was conducted with the Wage and Hour Division of the Department of Labor. Since there is no law against the hiring of illegal aliens employers frequently do so. One employer was found to have underpaid his illegal alien employees by $208,000.

Investigations have uncovered a myriad of examples of illegal aliens employed under another person's SSN. At a later date these illegal aliens can apply for SSA retirement benefits at either an SSA office or one of the U.S. Consulates abroad. The fact that they worked under an assumed name and SSN has no bearing on their entitlement to retirement benefits. SSA will simply assign them a new SSN, credit the earnings posting from the old SSN to the new one, and issue retirement checks. The fact that the alien illegally entered and worked in the U.S. and caused false statements to be made to SSA does not invalidate his entitlement. The effect of this is that SSA, which was originally created as a retirement annuity system for U.S. citizens and legal permanent residents, can and does pay benefits to any individual in the world who has paid enough FICA taxes, regardless of how the wages were earned.

CASE 3

PEDRO MARTINEZ

DALLAS, TEXAS

(COUNTERFEIT DOCUMENTS)

PEDRO MARTINEZ, THE OWNER OF MARTINEZ IMMIGRATION SERVICE WAS ALLEGED TO HAVE PURCHASED COUNTERFEIT ALIEN REGISTRATION CARDS AND SOCIAL SECURITY CARDS FROM CONTACTS IN CHICAGO, ILLINOIS. HE AND HIS SON WOULD THEN SELL THESE IDENTITY DOCUMENTS TO ILLEGAL ALIENS. THE DOCUMENTS COST $350 FOR AN ALIEN REGISTRATION CARD AND $20 FOR A SOCIAL SECURITY CARD. DURING THE EXECUTION OF A SEARCH WARRANT, 1,224 COUNTERFEIT SOCIAL SECURITY CARDS, A COUNTERFEIT ALIEN REGISTRATION CARD AND 362 BLANK BIRTH CERTIFICATES WERE SEIZED.

MARTINEZ' CARDS WERE USED BY ILLEGAL ALIENS AS FAR AWAY AS FLORIDA. MARTINEZ AND HIS SON WERE CONVICTED.

THIS INVESTIGATION SHOWS THAT FRAUDULENT IDENTITY DOCUMENT SCHEMES CAN BE NATIONAL IN SCOPE.

THE COUNTERFEITING OF SSN CARDS AND THE CREATION OF FICTITIOUS SSN'S WERE OTHER UNANTICIPATED CONSEQUENCES OF STRICTER REGULATIONS. THE SSN CARD IS EASY TO REPRODUCE AS IT HAS NO SECURITY FEATURES. ALMOST ANY NINE DIGITS CAN PASS FOR A SSN. INS AND SSA OFFICES ARE INUNDATED WITH COUNTERFEIT SSN CARDS. SSA CURRENTLY CANNOT POST SEVERAL MILLION EARNINGS REPORTS ANNUALLY BECAUSE THE REPORTED SSN HAS NOT BEEN ISSUED OR THE NAME AND NUMBER DOES NOT MATCH SSA RECORDS. HOW MANY CAN BE ATTRIBUTED TO COUNTERFEIT SSN ACTIVITY IS NOT KNOWN.

CASE 4

UNIVERSAL VISA

LOS ANGELES, CALIFORNIA

(BYPASS OF SSA INTEGRITY CONTROLS)

THIS INVESTIGATION INVOLVED OVER 75,000 SOCIAL SECURITY ACCOUNT NUMBER APPLICATIONS FOR ILLEGAL ALIENS. FRANK AND MARIA RICHARDS, CURRENTLY FUGITIVES, MADE AN ESTIMATED 1.5 MILLION DOLLARS OVER A 4 YEAR PERIOD BY SELLING SOCIAL SECURITY CARDS TO ILLEGAL ALIENS FOR AN AVERAGE FEE OF $20 PER CARD. ASSISTING THEM IN THIS SCHEME WERE AN SSA EMPLOYEE (GWENDOLYN GAY), A RETIRED LOS ANGELES POLICE DEPARTMENT OFFICER (JOSEPH GUZY), A LOS ANGELES SUPERIOR COURT REPORTER (JOYEL DORANDO), AND AN EX-CONVICT (ENRIQUE MANGASER).

EACH WEEK ON THURSDAY, GUZY, MANGASER AND THE RICHARDS CARRIED COMPLETED SS-5 APPLICATIONS FROM UNIVERSAL VISA TO A WEST LOS ANGELES WAREHOUSE. ON MOST OCCASIONS THE OTHER CONSPIRATORS WOULD JOIN THEM. AT THE WAREHOUSE, THE APPLICATIONS WERE CODED AND THEN PACKAGED IN GOVERNMENT FRANKED ENVELOPES. THE APPLICATIONS WERE MAILED DIRECTLY TO AN SSA COMPUTER CENTER AND KEYED INTO THE DATA BASE. THIS ACTION BYPASSED ALL THE INTEGRITY CONTROLS AT THE DISTRICT OFFICE LEVEL.

THE FOLLOWING SENTENCES WERE OBTAINED AS A RESULT OF THIS INVESTIGATION:

FRANK RICHARDS	-	FUGITIVE
MARIA RICHARDS	-	FUGITIVE
JOSEPH GUZY	-	30 MONTHS IMPRISONMENT, $26,000 FINE PLUS PROBATION
ENRIQUE MANGASER	-	30 MONTHS IMPRISONMENT, $5,000 FINE
JOYEL DORANDO	-	5 MONTHS IMPRISONMENT, $5,000 FINE PLUS PROBATION
GWENDOLYN GAY	-	30 DAYS IMPRISONMENT PLUS PROBATION

SSA AND OTHER AGENCIES PLACE RELIANCE ON THE VALIDITY OF SSA COMPUTER RECORDS. THE KEY TO THESE RECORDS IS THE SSN. PROJECTIONS, PROPOSALS, AND POLICIES ARE FORMULATED BASED UPON THE NUMBER AND SUBSTANCE OF SSN DATA. HOWEVER, APPEARANCES CAN BE DECEIVING.

Investigations are identifying more and more fraudulently created SSN's. The larger the number of fraudulent SSN's contained in the computer data base, the less reliable the varied uses of such information. Once an SSN is established it cannot be removed from the data base. SSA has no procedures to notify other agencies of SSN's that were illegally obtained. These numbers are used to defraud government benefit programs.

These four cases are a sample of the many investigations conducted by Project Baltimore. We have developed a number of proactive computer matches designed to further define the scope of the SSN fraud problem. These include an analysis of multiple SSN's mailed to one address, a match of SSN's issued to aliens without work authorization against the SSA earnings file and a match of illegal aliens recently apprehended by INS during "Project Jobs" with various benefit programs.

TABLE

YEAR	NUMBER OF NEW SSN's ISSUED	AVERAGE ANNUAL RATE
1972	9,564,000	
1973	10,038,000	9,801,000
1974	7,998,000	
1975	8,164,000	
1976	9,043,000	8,232,000
1977	7,724,000	
1978	5,260,000	
1979	5,213,000	5,496,000
1980	5,959,000	
1981	5,552,000	
Total	74,515,000	

Source: Office of Research & Statistics, SSA.

PREPARED STATEMENT OF BRYAN B. MITCHELL

GOOD MORNING. I AM BRYAN MITCHELL, ACTING DEPUTY INSPECTOR GENERAL, DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS). INSPECTOR GENERAL KUSSEROW REGRETS THAT HE CANNOT BE HERE THIS MORNING AND WANTS YOU TO KNOW THAT WE APPRECIATE THIS OPPORTUNITY TO PRESENT OUR COMMENTS ON THE ISSUE OF FALSE IDENTIFICATION AND ON THE EVER EXPANDING PROBLEMS RELATED TO THEIR USE IN OUR SOCIETY.

OVER THE LAST FEW YEARS, THE OFFICE OF INSPECTOR GENERAL (OIG) HAS GAINED EXTENSIVE KNOWLEDGE AND EXPERIENCE IN THIS AREA. AS YOU HEARD FROM INSPECTOR DAN LANE OF OIG STAFF, WE HAVE BEEN QUITE ACTIVE WITH PROJECT BALTIMORE! THE CASES HE DESCRIBED THIS MORNING, REPRESENT ONLY A SMALL EXAMPLE OF OUR WORK. LET ME TAKE THIS OPPORTUNITY TO CITE SEVERAL OTHER CASES WHICH ILLUSTRATE THE WIDE RANGE OF PROBLEMS WE HAVE INVESTIGATED, USUALLY IN COOPERATION WITH OTHER GOVERNMENTAL LAW ENFORCEMENT AGENCIES OR THE SOCIAL SECURITY ADMINISTRATION (SSA).

TODD W. SKINNER, AN SSA EMPLOYEE AND AN ACCOMPLICE, DENNIS HENSON, DEFRAUDED THE SUPPLEMENTAL SECURITY INCOME (SSI) PROGRAM OF $104,533. THIS FRAUD STARTED IN 1979 AND INVOLVED THE FALSIFICATION OF NINE SOCIAL SECURITY ACCOUNTS. SIX OF THESE ACCOUNTS CREATED BY SKINNER WERE FOR TOTALLY FICTITIOUS PEOPLE. HE ESTABLISHED SOCIAL SECURITY NUMBERS (SSN'S) FOR THESE FICTITIOUS PEOPLE AND INITIATED BENEFIT PAYMENTS. IN ADDITION, HE REACTIVATED THREE SUSPENDED SUPPLEMENTAL SECURITY INCOME (SSI) ACCOUNTS AND PLACED FICTITIOUS REPRESENTATIVE PAYEES ON THE ACCOUNTS. SSI CHECKS WERE DEPOSITED INTO BANK ACCOUNTS ESTABLISHED UNDER FICTITIOUS NAMES AND THE MONEY WAS SUBSEQUENTLY REMOVED.

DURING APRIL 1982 SKINNER AND HENSON PLED GUILTY. SKINNER WAS SENTENCED TO THREE YEARS IMPRISONMENT, THREE YEARS PROBATION AND ORDERED TO MAKE RESTITUTION. HENSON WAS SENTENCED TO TWO MONTHS IMPRISONMENT, THREE YEARS PROBATION AND ORDERED TO MAKE PARTIAL RESTITUTION.

DOMINGO F. VELAZQUEZ COLLECTED SOCIAL SECURITY DISABILITY PAYMENTS FOR HIMSELF AND SIX DEPENDENTS WHILE BEING GAINFULLY EMPLOYED, UNDER AN ASSUMED NAME AND SOCIAL SECURITY NUMBER. VELAZQUEZ ILLEGALLY RECEIVED $23,647 IN SOCIAL SECURITY DISABILITY BENEFITS. VELAZQUEZ USED A SECOND ASSUMED NAME AND SOCIAL SECURITY NUMBER TO ILLEGALLY RECEIVE $6,967 IN RENT SUPPLEMENT PAYMENTS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND $15,027 FROM THE AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) PROGRAM. THE TOTAL LOSS TO THE FEDERAL AND STATE GOVERNMENT WAS $45,641.

ON JUNE 25, 1981, VELAZQUEZ PLED GUILTY TO ONE COUNT OF SUBMISSION OF FALSE STATEMENTS IN FEDERAL DISTRICT COURT. HE WAS SENTENCED TO 6 MONTHS IMPRISONMENT, 4-1/2 YEARS PROBATION AND FINED $7,000.

HARRY ORTEZ, A DEPUTY COOK COUNTY ILLINOIS SHERIFF SOLD "IDENTIFICATION PACKAGES" CONTAINING COUNTERFEIT SOCIAL SECURITY AND SELECTIVE SERVICE CARDS AND ILLINOIS BIRTH CERTIFICATES TO ILLEGAL ALIENS. THIS MATTER WAS JOINTLY INVESTIGATED BY OIG/HHS AND THE FBI. TEN PACKETS OF IDENTIFICATION WERE SOLD BY ORTEZ TO AN FBI UNDERCOVER AGENT POSING AS AN ILLEGAL ALIEN FOR $1,000.

ON MAY 27, 1981, ORTEZ PLED GUILTY TO THE SALE OF DOCUMENTS WITH FRAUDULENT GOVERNMENT SEALS. HE WAS SENTENCED TO 2 YEARS PROBATION AND FINED $1,000.

LOUIS LOPEZ AND HIS WIFE ANGELA ALONG WITH THREE OTHERS DEVISED A SCHEME TO DEFRAUD THE AFDC AND FOOD STAMP PROGRAMS. THE LOPEZES CREATED 16 FICTITIOUS IDENTITIES, 3 WOMEN AND 13 CHILDREN, BY ILLEGALLY APPLYING FOR AND RECEIVING SSN'S BY USING COUNTERFEIT BAPTISMAL CERTIFICATES. FROM 1975 TO 1979 THEY DEFRAUDED THE STATE OF CONNECTICUT AND THE FEDERAL GOVERNMENT OF OVER $67,000.

DURING JULY 1981, THE LOPEZES WERE SENTENCED IN FEDERAL DISTRICT COURT TO SERVE A TOTAL OF 8 MONTHS IMPRISONMENT AND FINED A TOTAL OF $5,000. IT IS INTERESTING TO NOTE THAT AT THE TIME THE LOPEZES WERE ARRESTED BY THE POSTAL INSPECTION SERVICE, THEY WERE IN THE PROCESS OF SETTING UP AN IDENTICAL SCHEME IN FLORIDA.

AS YOU WILL NOTE, OUR INVESTIGATORS AND AUDITORS HAVE UNCOVERED A BROAD SPECTRUM OF CASES RELATED TO FRAUDULENTLY MADE AND FRAUDULENTLY OBTAINED IDENTIFICATIONS, ALL OF WHICH CAN IMPACT UPON THE BENEFITS DERIVED FROM HHS PROGRAMS. HOWEVER, OUR WORK TO DATE, REPRESENTS ONLY A BEGINNING WHICH ACCORDING TO A 1980 GAO REPORT, IS COSTING TAXPAYERS MORE THAN $15 BILLION ANNUALLY. THE PROBLEM WITH FALSE IDENTIFICATION IS THAT ONE PIECE OF FALSE IDENTIFICATION CAN BE GREATLY AMPLIFIED INTO MANY FRAUDULENTLY OBTAINED BUT LEGITIMATE ITEMS OF PERSONAL OR PROFESSIONAL IDENTIFICATION. AS SUCH, ONE PERSON CAN HAVE MORE THAN ONE IDENTITY. AND FROM OUR PERSPECTIVE, THAT CAN BE VERY COSTLY TO THE GOVERNMENT. FOR EXAMPLE, THEORDORE LEVCHENKO, A LAYMAN WITH NO MEDICAL BACKGROUND, IMPERSONATED A PSYCHIATRIST AT A MEDICAL CENTER IN THE BRONX, NEW YORK AND RECEIVED FROM MEDICAID APPROXIMATELY $50,000 FOR SUBMITTING APPROXIMATELY 275 CLAIMS DURING THE YEARS 1976-1979.

LEVCHENKO SUCCESSFULLY CARRIED OUT THIS IMPERSONATION BY THE FOLLOWING MEANS. FIRST, HE ACCUMULATED BACKGROUND DATA ON DONALD FINK, A PHYSICIAN PRACTICING MEDICINE IN CALIFORNIA. THEN, HE CONVINCED THE QUEEN'S COUNTY SUPREME COURT THAT HE WAS DONALD FINK AND LEGALLY CHANGED FINK'S NAME TO THE FICTITIOUS NAME OF DONALD BURNS. HE THEN REQUESTED THAT DR. FINK'S FILE AT THE NATIONAL BOARD OF MEDICAL EXAMINERS IN PHILADELPHIA, PENNSYLVANIA BE CHANGED TO REFLECT HIS NEW LEGAL NAME. HE ALSO REQUESTED AND RECEIVED COPIES OF FINK'S TEST RESULTS AND EDUCATIONAL QUALIFICATIONS FROM THE NATIONAL BOARD. IN THE NAME OF DONALD BURNS, HE APPLIED FOR A NEW YORK STATE MEDICAL LICENSE BY USING FINK'S BACKGROUND AND EDUCATIONAL QUALIFICATIONS. ONCE HE RECEIVED HIS LICENSE, HE THEN APPLIED TO NEW YORK CITY MEDICAID TO PARTICIPATE IN THE MEDICAID PROGRAM AS DR. DONALD BURNS. (NOTE: LEVCHENKO ALSO APPLIED FOR AND RECEIVED A SOCIAL SECURITY CARD UNDER THE NAME DONALD BURNS.)

THE ABOVE SCHEME WAS ONLY UNCOVERED WHEN LEVCHENKO WAS ARRESTED BY AGENTS OF THE U.S. POSTAL INSPECTION SERVICE AND THE FBI FOR SUBMITTING FALSE APPLICATIONS FOR CREDIT CARDS. THIS ARREST TOOK PLACE IN 1978. AFTER BEING FREED ON BAIL, LEVCHENKO BECAME A FUGITIVE FROM JUSTICE AND IS STILL A FUGITIVE.

Morton Canton, allegedly a Canadian pharmacist, impersonated Dr. Michele Labella, an Italian physician, who lives and practices medicine in Naples, Italy. Under this false identity, Canton received approximately $153,000 in Medicare payments for medical services rendered during 1979-1980 in the Miami, Florida area.

Canton was able to accomplish this scheme by apparently possessing legitimate identification of Dr. Michele Labella and using this identification to take the Florida Medical Exam for foreign physicians. Canton passed this exam, received a license to practice medicine in Florida, and subsequently became a Medicare provider.

The scheme was uncovered when Canton was arrested on a fugitive warrant for narcotics violations. Canton has been extradited back to Canada to face these charges.

In addition, on October 2, 1981, the U.S. Attorney in Miami filed a civil suit against Canton in the amount of $332,499.44 for filing false claims to Medicare. This matter is still pending.

In May 1980, the Office of Inspector General began an investigation into a misappropriation of approximately $3,000 by Ford McGean, the former Executive Director of the Tulare Kings, Professional Standards Review Organization (PSRO). McGean was charged with falsely billing the PSRO on six separate occasions for such things as moving a piano he didn't have and for attending conferences in Hawaii and San Francisco that never took place.

During the course of this investigation, it was determined that McGean was actually Ford Kennison Winnek and that he had a history of falsifying documents. Included in Winnek's past was the apparant falsification of documentation submitted to the U.S. Navy at the time of Winnek's discharge by a "Dr. Kelly J. McGean, a psychiatrist." This document was submitted in support of Winnek's claim of total disability and apparently was the basis under which he received ten years of disability checks.

On January 19, 1981, Winnek pled guilty to embezzlement and on April 20, 1981, he was sentenced to three years incarceration.

Today, there are only four or five truly generic type documents needed to establish one's identity,....a birth certificate, a passport or various Immigration and Naturalization (INS) documents, a driver's license and a social security card.

Once a person gets access to a social security number, depending on other factors such as age, marital status, he or she can then qualify for our Federal, State and local assistance programs, such programs as:

- Social Security
- Social Security Supplemental Income
- Medicaid
- Medicare
- Food Stamps
- Aid to Families with Dependent Children
- Student Loans
- Unemployment Compensation
- Black Lung

All require a social security number.

I would like to discuss first some of the problems we have identified that lead to major misuse of Federal identity documents and secondly, the projects we are initiating to identify and correct SSN abuses in HHS benefit programs.

As you have seen from our slides, social security numbers are fraudulently obtained through several means:

1. Use of false documents and/or false statements with either a real or fictitious identity;

2. USE OF ANOTHER PERSON'S NUMBER OR NAME WHICH HAS BEEN BORROWED OR STOLEN TO REQUEST A DUPLICATE;

3. OBTAINING A VALID NUMBER OR STOCK CARD, USING A REAL OR FICTITIOUS IDENTITY OR THROUGH THE BRIBERY OF AN SSA EMPLOYEE.

4. COUNTERFEITING SOCIAL SECURITY CARDS.

OIG HAS DEVOTED EXTENSIVE TIME, ENERGY AND EFFORT TOWARDS COMBATING THE PROBLEMS OF FALSE IDENTIFICATION MISUSE, INCLUDING PROBLEMS ASSOCIATED WITH THE SSN SYSTEM. AT PRESENT, WE ARE ACTIVELY INVESTIGATING 129 CASES INVOLVING THE METHODS PREVIOUSLY DESCRIBED. MOST OF THESE SCHEMES SUCCEEDED IN THE PAST BECAUSE OF CERTAIN WEAKNESSES IN THE SSN SYSTEM, WHICH I WILL DESCRIBE LATER.

WE HAVE IMPLEMENTED THREE INITIATIVES TO PROVIDE RECOMMENDATIONS FOR CORRECTING PROBLEMS AND TO WEED OUT INDIVIDUALS CAUSING THE PROBLEMS. PROJECT BALTIMORE, WHICH WAS DISCUSSED EARLIER REPRESENTS ONE SUCH INITIATIVE.

ANOTHER MAJOR UNDERTAKING WAS A REVIEW OF THE SSN ISSUANCE SYSTEM. WE EXAMINED THE MANAGEMENT PRACTICES AND INTERNAL CONTROLS IN SSA'S FIELD OFFICES, THE VALIDITY OF SSN APPLICATION DATA, THE VULNERABILITIES AND DETERRENT/DETECTION CAPABILITIES OF THEIR COMPUTER SYSTEM AND THE TRENDS IN ISSUANCE OF SSN'S TO ALIENS NOT AUTHORIZED TO WORK. THE REVIEW WAS CONDUCTED BETWEEN JANUARY AND SEPTEMBER 1980 USING TWO TARGET CITIES WITH HIGH ALIEN POPULATIONS--NEW YORK CITY AND WASHINGTON, D.C.

SSA IS AUTHORIZED TO ISSUE NUMBERS TO ALIENS:

1. FOR WORK PURPOSES TO LEGAL ALIENS AUTHORIZED BY INS; AND

2. FOR TAX AND IDENTIFICATION PURPOSES, BY LEGAL ALIENS, NOT AUTHORIZED TO WORK.

OUR FINDINGS SHOWED:

1. OUT OF ALL WORK-RELATED SSNS ISSUED TO ALIENS, 20 PERCENT WERE ISSUED ERRONEOUSLY, EITHER TO ILLEGAL ALIENS OR TO VISITING ALIENS NOT AUTHORIZED TO WORK. TESTING 1977 DATA SHOWED ALIENS USED AT LEAST 24 PERCENT OF THE NONWORK NUMBERS FOR WORK PURPOSES.

2. SSA HAD NO NATIONAL FRAUD AWARENESS OR EFFECTIVE CENTRAL OFFICE GUIDANCE ON HOW TO CONTROL FRAUD AND MISUSE. HOWEVER, LOCAL OFFICES WERE SETTING UP AD HOC PROCEDURES TO DEAL WITH SSN FRAUD AND ABUSE PROBLEMS.

3. SSA'S EVIDENCE CERTIFICATION PROCESS LACKED CONTROLS, SUPERVISION, AND DOCUMENT TRAINING RESULTING IN ERRONEOUS ISSUANCE OF SSN'S.

4. BECAUSE OF LACK OF CASE CONTROL AND EFFECTIVE RECONCILIATION, FIELD OFFICE INVOLVEMENT WAS TOTALLY BY-PASSED AND FRAUDULENT NUMBERS WERE ISSUED WITH NO SYSTEMATIC METHOD OF DETECTION.

5. CONTROLS OVER PRINTING, DISTRIBUTION AND STORAGE OF BLANK SSN'S WERE FOUND TO BE INEFFECTIVE.

6. SSA HAD NOT PROVIDED CLEAR INSTRUCTIONS FOR ISSUING SSN'S TO ALIENS WHO DO NOT HAVE WORK AUTHORIZATIONS NOR INSTITUTED ANY DETERRENTS TO THE ABUSE OF THESE NUMBERS.

As you know SSA has released its five year plan to update its entire computer system, a step which will impact significantly on this problem. In addition, under SSA's recently issued SSN enumeration improvement plan, many of these findings will be addressed in the short term. For example: (A) Commissioner Svahn has recently initiated a computerized direct issuance system (DODI) for social security cards. This will eliminate the storage and physical distribution of cards from the District Offices and will significantly eliminate problems associated with theft of blank social security cards; (B) social security now differentiates all legal alien social security cards issued for nonwork purposes. This measure together with a data exchange with INS (to begin in August 1982), will do much to identify unauthorized work useof SSN's; and (C) social security has improved the evidentiary requirements for cards. SSA clarified its instructions to District Office workers and began an intensified training program to detect fraudulent identification.

Our third major initiative in the area of reducing the misuse of Federal identity documents can be summed up under the title of Advanced Computer Techniques. Under our new workplan, the primary OIG focus will be on Medicaid, Medicare and SSA Title II programs because of the extensive amount of Federal dollars expended and because of the complexity of the problems. As such, even though we will continue to seek out individuals who are defrauding and/or abusing HHS programs, our new approach will be more proactive rather than reactive. This will include initiatives in four basic sections:

1. Fraud and abuse initiatives;
2. Internal controls associated with computer systems design, development and operations;
3. Review of fiscal controls; and
4. Program management and operations reviews.

On both a government-wide as well as Department-wide basis, our proactive fraud and abuse initiatives will depend mainly on new computer applications to develop and scan program records and transactions at the point of probable detection of fraud or abuse. At the government-wide level, OIG is participating in various interdepartmental projects through the President's Council on Integrity and Efficiency (PCIE). For example, we recently completed a monograph on SSN fraud which is now being circulated to other departments through the PCIE and Office of Management and Budget. We have also trained staff at the Currency Investigations Branch, U.S. Customs Service, which will assist them to detect fraudulent financial transactions reported under bogus SSN's. Within the Department, OIG has been highly successful in performing matches which identify deceased beneficiaries or persons fraudulently assuming the identity of deceased beneficiaries, still receiving benefits. In the coming year, these match projects will include further reviews of the SSA master file and the black lung Retirement, Survivors and Disability Insurance (RSDI) file. Vulnerability assessments and oversight of investigative procedures will also be part of our fraud and abuse initiatives.

Our specific computer system reviews and our review of fiscal controls will put major emphasis on reviewing the internal controls in the Health Care Financing and SSA payment systems and in accounting processes involving large amounts of money. This will include a review or audit of computer security systems; their case control systems and systems operations.

We have underway, two computer projects which are aimed at addressing the specific concerns of this Committee. One computer project is designed to detect persons or institutions who use fictitious information (such as aliases, differing addresses, and other schemes to avoid detection) so that they will receive more government benefits than they are entitled to receive. A second project will show SSN's that are being used but that have not been officially

ISSUED BY SSA. THE COMPUTER PROGRAM WILL IDENTIFY AND PRINT OUT ANY COMPUTER RECORD WITH AN SSN THAT HAS NOT BEEN ISSUED BY SSA DURING SPECIFIC TIME PERIODS. OTHER PROJECTS WHICH INCORPORATE VARIOUS ADVANCED COMPUTER TECHNIQUES ARE ON THE DRAWING BOARD BOTH HERE AND IN OTHER GOVERNMENTAL AGENCIES. FOR EXAMPLE, IN CONJUNCTION WITH THE INTERNAL REVENUE SERVICE (INS), WE ARE DEVELOPING A COMPUTER MATCH PROGRAM WHICH WILL DETECT FRAUDULENT TAX REFUND SCHEMES. IN TIME, WE EXPECT TO MAKE SIGNIFICANT PROGRESS IN REDUCING THE ABUSE AND FRAUD ASSOCIATED WITH THE DEPARTMENT'S OTHER BENEFIT PROGRAMS.

IN CONCLUSION, LET ME STATE THAT WE SEE OUR NEW INITIATIVES CONCENTRATING ON CONTINUED INVESTIGATIVE REFINEMENTS, INTERAGENCY ASSISTANCE AND ACTIVE MONITORING OF THE IMPLEMENTATION OF IMPROVEMENTS TO WHICH SSA IS NOW STRONGLY COMMITTED. WE FEEL THAT THE WORK WE HAVE DONE, ON THE SSN SYSTEM, AND WILL BE UNDERTAKING IN THE FUTURE, WILL GREATLY STRENGTHEN SYSTEMS, THEREBY REDUCING THE AMOUNT OF FRAUD, WASTE AND ABUSE ASSOCIATED WITH THESE PROGRAMS. ONLY THROUGH SYSTEMIC MODIFICATIONS AND SYSTEMS UPDATING, CAN THE LEVEL OF ABUSE AND MISMANAGEMENT BE KEPT LOW. AND ONLY WHEN THIS HAPPENS WILL WE BEGIN TO SEE CHANGES--POSITIVE CHANGES--IN OUR BENEFIT PAYMENTS TO BENEFICIARIES.

THIS CONCLUDES MY TESTIMONY.

PREPARED STATEMENT OF JAMES B. THOMAS, JR.

I am pleased to have this opportunity to appear before you today to discuss the problem of false identities and false claims of United States citizenship used to receive student financial aid and the role of the Office of Inspector General in investigating those incidents.

As you know, the Department of Education administers various student financial aid programs in which Federal funds flow to the student. The Pell Grant program is included in this group. The Department also administers the Guaranteed Student Loan program in which funds from the private sector are loaned to students on a Federally insured basis. While thousands of schools participate in these programs, each of these programs has a common factor, that there is no face-to-face contact between the student and the Department.

In these student aid programs, the appropriate applications for loans or grants are mailed to large processing centers where determinations as to loan insurability or grant eligibility are made. These determinations are based upon the personal financial data presented on the form. Due to the long-distance relationship between the Department of Education and its student recipients, the Department relies on the schools to be alert to the possibilities of fraud on the part of students.

As a result of the way the Student Financial Assistance programs are administered, most of our recipient cases involve the creation of fraudulent identity and/or eligibility rather than creating false identification documents. Until recently most of our investigations which involved the use of fictitious names and/or Social Security Numbers involved U. S. citizens who obtain multiple fraudulent Guaranteed Student Loans.

As I am certain the members of this Subcommittee are aware, the Social Security Number has become a universal identifier used by nearly all Federal, state and local agencies in the administration of individual benefit programs. Thus, if a person attempts to defraud a Department student aid program by using various names and/or Social Security Numbers, that person may also use the same names and/or Social Security Numbers to defraud other Governmental programs.

Some examples of the use of fictitious identities to obtain student financial aid are as follows:

- A woman stole the handbags of other women and used their personal checks and credit cards to illegally obtain goods. In six instances she used these identities and fictitious Social Security Numbers to obtain a total of approximately $15,000 in Guaranteed Student Loans. She was convicted in Massachusetts during December, 1981.

- In the New York City area, 15 family members obtained over $250,000 in fraudulent Guaranteed Student Loans. Eight members of the family, including the mother, have been convicted in one state, and two have been convicted in two states. They are currently under investigation in a third state.

- An individual pled guilty in the Eastern District of New York during December, 1981, to charges of bank fraud. He had received 39 Guaranteed Student Loans totaling about $70,000. At least 23 false names and Social Security Numbers were used.

- During June, 1981, an individual pled guilty in the Southern District of New York to charges of bank fraud, conspiracy and false statements. He had submitted approximately 60 false Guaranteed Student Loan applications totaling about $140,000. The New York State Higher Education Services Corporation has estimated the loss at approximately $135,000. False names, Social Security Numbers and personal information were used on the applications.

- In April, 1981, a Massachusetts man was convicted of using fictitious names and Social Security Numbers on Guaranteed Student Loan applications. He obtained at least $25,000 from the use of 11 names and 14 Social Security Numbers.

Both Guaranteed Student Loans and Pell Grants are restricted by law to U. S. citizens and certain eligible aliens. Applications for both programs require an affirmative statement by the applicant of citizenship or eligible resident alien status. False statements on these applications in regard to citizenship are a violation of Federal law.

Investigators in our Boston Office recently participated with agents of the Immigration and Naturalization Service and Postal Inspection Service in an effort aimed at identifying foreign students who were illegally receiving student benefits by falsifying eligibility status. This investigation, known as "Project Rhode Island," resulted in the indictment of 27 individuals who fraudulently received about $93,000 in educational benefits. The indictments led to 22 convictions and one dismissal. The four remaining defendants are fugitives.

As our awareness of the problem of alien students illegally obtaining benefits grew, the Office of the Inspector General in the past six months has sought to develop new and effective strategies to combat the problem. We recognized the need for a coordinated effort and have initiated a project with other Federal law enforcement agencies.

In the Winter of 1981, we had discussions with prosecutors in the Criminal Division of the Justice Department concerning the establishment of a nationwide project to investigate and prosecute cases against aliens who illegally obtain student financial aid. As a result of these meetings, a nationwide project was initiated in concert with the Criminal Division, Immigration and Naturalization Service, and Postal Inspection Service. The FBI also participates in this project on a selective basis. At this time we are actively investigating these matters in all regions of the country.

Some examples of alien student cases are as follows:

- In March, 1982, Immigration and Naturalization Service and FBI agents arrested seven ineligible aliens in New York City for fraudulently obtaining student aid at the time of the arrests. They discovered four other aliens who had also illegally obtained student loans.

- In April, 1982, an ineligible alien was convicted in Connecticut of making false statements when applying for student aid. During the course of the investigation it was discovered that besides $2,500 in student aid, she also received $23,000 in Aid for Families with Dependent Children benefits. This individual used an alias and four different Social Security Numbers.

- An individual in Denver was arrested by Immigration and Naturalization Service agents and deported as an illegal alien. After being deported the alien was indicted on three counts of mail fraud for falsely claiming to be a U. S. citizen on Student Financial Assistance applications and illegally obtaining approximately $12,000 in aid. The unusual step of indictment after deportation was due to the fact that the individual had already illegally re-entered the U. S. after being previously deported. He is currently listed as a fugitive.

We have recognized the problems with false identities and/or eligibility in student financial aid programs. We will continue our efforts to attack these problems on a case-by-case basis and with new strategies and methods when we can.

Mr. Chairman, this completes my statement.

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

JUN 30 1982

Dear Mr. Chairman:

It has been brought to my attention that your Subcommittee held hearings on June 15 and 16, 1982, concerning the use of forged documents particularly government identification documents.

As a matter of interest, the Deputy Assistant Secretary for Enforcement for Treasury testified on May 5, 1982, before the Subcommittee on Crime, House Committee on the Judiciary on H.R. 352, a bill to revise and improve the laws controlling false identification crimes. I am encouraged by not only the House Subcommittee efforts but also your Subcommittee's interest in false identification.

The Treasury Enforcement Bureaus routinely encounter the use of false identification documents in enforcing the laws over which they have jurisdiction. Therefore, I would like to submit a statement by Deputy Assistant Secretary Powis to be inserted into the hearing record.

If I can provide additional information on this topic, please do not hesitate to request our assistance.

Sincerely,

John M. Walker, Jr.
Assistant Secretary
(Enforcement and Operations)

The Honorable
William V. Roth, Jr., Chairman
Senate Governmental Affairs Committee
Permanent Subcommittee on Investigations
United States Senate
Washington, D.C. 20510

Enclosure

PREPARED
STATEMENT BY
ROBERT E. POWIS
DEPUTY ASSISTANT SECRETARY FOR ENFORCEMENT
DEPARTMENT OF THE TREASURY
TO THE
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. Chairman and Members of the Subcommittee:

The use of false identification permeates almost every facet of criminal activity. Fugitives, terrorists, armed robbers, illegal aliens and con-men all need and use false identification. The Treasury enforcement bureaus routinely encounter false identification in enforcing the laws over which they have jurisdiction.

The Bureau of Alcohol, Tobacco and Firearms often encounters situations in which fraudulently acquired identification cards such as driver's licenses are used in the purchase of firearms. This problem is particularly acute in states which can provide "on-the-spot" driver's licenses such as Florida and Ohio. These states also happen to be primary source states for illegal trafficking in firearms. The following summaries of two cases illustrate the problem encountered by ATF.

New York

ATF agents in New York City broke up two organized firearms smuggling rings which were transporting weapons from Ohio to New York. One group was responsible for the distribution of over 800 handguns which were transported to New York City from Youngstown, Ohio. The second group distributed approximately 200 handguns which had been purchased in Akron, Ohio. Seven defendants have been convicted in these cases, and two are awaiting prosecution. The defendants in both of these cases were routinely using fraudulent Ohio driver's licenses to acquire firearms.

Ft. Lauderdale

ATF agents in Ft. Lauderdale arrested a subject when it was determined that he had used a fraudulent Florida driver's license in the purchase of 67 handguns. This subject was a Nigerian citizen, and he intended to illegally export these firearms to Nigeria. The subject was convicted and sentenced. It was learned that he had used 19 aliases and had various types of false identification made up for each. This individual is facing additional Federal charges in Maryland and Virginia each under different assumed names.

The U.S. Customs Service and the Internal Revenue Service, during the course of their enforcement of the Bank Secrecy Act, frequently encounter individuals who use false identification. Typically the individuals involved are couriers working for organizations which launder money for major drug traffickers. These couriers frequently produce false identification when making large cash deposits at financial institutions in order to avoid the reporting requirements of the Bank Secrecy Act.

The Secret Service, in connection with its criminal enforcement responsibilities, has substantial direct contact with criminals who use false identification. In FY 1981, the Secret Service investigated 74,000 forged U.S. Government check cases and 9,800 forged U.S. saving's bond cases. In the vast majority of these cases, the fraudulent negotiations of checks or bonds were accomplished through the use of false identification. The typical forger can depend on false identification to conceal his identity and avoid detection. It is a part of his modus operandi. Forgers have little trouble in acquiring ficticious identification. They are readily available from a variety of sources including passport studios, department stores and other criminal identification bureaus. The yellow pages of most telephone books contain listings of such criminal enterprises under "identificatior bureaus." The most common false identification used by forgers include, but are not limited to, driver's licenses, commercially obtained photo IDs, Social Security cards, alien registration cards, birth certificates, automobile registrations, and certificates of origin documents.

The Secret Service has also found that individuals who engage in the counterfeiting of U.S. currency often involve themselves in the counterfeiting of other government and commercial obligations as well as items of false identification. Secret Service counterfeit money investigations often result in the seizure of various types of counterfeits of local, state and Federal documents. The expertise, equipment, facilities and supplies required to counterfeit U.S. currency are identical to those required to counterfeit false identication documents. As a result of this fact, the Secret Service is in a unique position to make a significant contribution to the Federal enforcement effort to control false identication crimes. Investigation techniques which have been successfully applied to safeguarding our nation's currency could also be utilized to protect the integrity of items of identification.

Secret Service special agents receive extensive training in the field of counterfeiting throughout their careers. Agents are not only exposed to the production of genuine obligations of the U.S. but also to the problems encountered by the typical counterfeiter. Through training and experience, they become experts in the detection of counterfeit U.S. currency and other documents.

The Secret Service uses two basic approaches to counterfeiting investigations. First, at the distribution level, the Secret Service develops information through the use of confidential informants and trained undercover agents who routinely infiltrate groups involved in the manufacture of counterfeit currency. It has been said that an investigative agency is only as effective as its sources of information. This adage certainly applies in the field of counterfeiting investigations whether that investigation be directed toward counterfeit money or to counterfeit identification. The second investigative approach is directed at the manufacturer, referred to as the "plant". The Secret Service has traditionally maintained liaison with the printing industry in order to uncover suspicious purchases of paper, ink, photographic supplies, printing equipment, etc. These efforts often result in the early detection and suppression of the counterfeiting manufacturing plant. The Secret Service realizes that counterfeiters do not restrict themselves solely to the manufacture of counterfeit currency. Often times, they expand their operations to include a wide range of other items including false identification. Several typical case histories are hereby set forth.

In July 1981, a Secret Service investigation commenced in Las Vegas involving four individuals who were believed to be manufacturing counterfeit $20 and $100 Federal Reserve Notes. A Secret Service agent was able to infiltrate the group. He purchased $60,000 worth of counterfeit money, and the perpetrators were arrested when they made the delivery. An additional $120,000 in counterfeit money was subsequently recovered at the printing plant responsible for the manufacture of the currency. Also recovered were large quantities of counterfeit identification including Social Security cards and driver's licenses from a number of states.

In March 1981, an individual was arrested by the Secret Service in possession of $50,000 in counterfeit $10 Federal Reserve Notes. The subject was a twice convicted counterfeiter who was scheduled to stand trial on the very next day on still another counterfeiting charge. Following his arrest Secret Service agents searched a residence in Mt. Dora, Florida, and seized a printing press and numerous printing plates and negatives used to manufacture counterfeit U.S. currency. In addition, the agents seized large quantities of counterfeit blank Social Security cards, negatives for an international driver's license, blank counterfeit State of Florida food stamp identification cards, counterfeit health insurance cards and counterfeit voter registration cards for the City of Baltimore.

An investigation was initiated by Secret Service agents in Tennessee in 1981 after three individuals had made suspicious purchases at several printing supply houses. Surveillance led to a residence which seemed to be their center of operation. Additional investigation led to the execution of the search warrant on the premises. The search resulted in the seizure of counterfeit State of Tennessee driver's licenses, counterfeit $100 American Express Traveler's Checks, counterfeit $1 Federal Reserve Notes, counterfeit State of Tennessee welfare checks and counterfeit social security cards.

The above cases are but a few of the large number of Secret Service counterfeit money investigations which also involve counterfeit identification. Large seizures of counterfeit alien registration cards have been made by the Secret Service in recent years in the Southwest in conjunction with counterfeit money investigations. It should also be kept in mind that advanced technology in the reprographic field, particularly with color copies, pose a definite threat to the future security of legitimate pieces of identification. The Secret Service is on the cutting edge of these technological advances.

In considering the Secret Service's ability to make a contribution to the Federal effort against false identification, it must be realized that the Secret Service has a unique and sophisticated counterfeiting laboratory. Technicians in this laboratory spend a considerable amount of time examining new counterfeiting issues in an effort to determine whether or not these counterfeit obligations stem from a common manufacturer. During the counterfeiting process, certain defects are developed on printing plates which are subsequently transferred to all images produced by that plate. The counterfeit laboratory makes associations with new counterfeit issues and provides valuable investigative leads in a number of cases.

The Secret Service counterfeit laboratory has unique capabilities with regard to paper and has capabilities to perform preliminary tests for starch, protein, lignin, rosin size and more sophisticated tests which determine the pulping process and species identification. In addition, the laboratory has the largest collection of commercial and private watermarks in the world today. The watermark identification system consists of a computer file with over 16,500 domestic and foreign watermarks and a microfilm file with exemplars. This system is essential in identifying partial watermarks which are often times developed on counterfeit specimens.

Technological advances in the office machine copier industry in the last few years have resulted in an increased number of counterfeits produced either partially or entirely by this type of equipment. The Secret Service laboratory presently has an exemplar file of over 650 office machine copiers which includes specifications, date of introduction, service manuals, and other pertinent characteristics. With the aid of a computer, characteristics for a questioned copy can be searched against the exemplar file resulting in the make and model of possible suspect copiers. Once suspect copiers have been identified, individualization can be accomplished by comparing defects on the pattern and photoconductor drum to those found on the counterfeit specimen. This could be very significant in the association of false items of identification of common origin. The laboratory is also equipped with a fully operational print shop. This equipment is used for testing plates and negatives seized in counterfeit cases, evaluating proposed security features for U.S. obligations, experimentation with regard to advances being made in the printing industry and producing plates and negatives which may be used in counterfeiting investigations.

The problem of identification is national in scope. Criminals who need and use such identification are not impeded by state boundaries. The use of and travel with false identification is widespread and involves interstate commerce. State laws tend to regulate only documents which they issue.

Although there are a large number of Federal laws dealing with false identification, hardly any of them include the possession of documents as a crime. Many of the existing Federal laws with respect to false identification are ineffective in determining false identification crimes. The Treasury Department feels that there is a need to revise and improve the laws controlling false identification crimes.

U.S. Department of Justice

Immigration and Naturalization Service

Office of the Commissioner

Washington, D.C. 20536

CO 1556.1-C

Honorable William V. Roth, Jr.
Chairman, Permanent Subcommittee
on Investigations of the
Committee on Governmental Affairs
United States Senate

Dear Chairman Roth:

This letter describes the background and current status of the Immigration and Naturalization Service's Alien Documentation, Identification, and Telecommunications (ADIT) Program.

Implementation of the ADIT Program began in 1975. Its purpose was to develop a standardized system for providing positive identification for aliens entering the United States. Significant development efforts have been expended to accomplish this task. The basic concepts driving these efforts are the development of a data collection system, the production of secure machine-readable identification cards for permanent resident aliens and border crossers, and the development of a system of computer verification of the cards at US ports of entry and INS field offices. As envisioned, the integration of these three components of the ADIT system are necessary to insure its security. Identification can be achieved solely by examining a card. However, positive verification of information pertaining to the card holder can only be achieved by accessing the on-line ADIT computer records which provide examiners with accurate information on the identification and current status of the card and its lawfull holder. The initial ADIT concept called for computer verification of the cards by card readers in primary inspection lanes, and by computer terminals in secondary inspection stations at ports of entry and other INS field offices.

The ADIT Program developed a system which has proven effective. To date, approximately three million highly secure, machine-readable cards have been produced and issued. The cards are produced at a centralized contractor-operated facility under strict government supervision. The cards are highly resistant to fraudulent use and successful counterfeiting. To our knowledge, there has been no counterfeiting or alteration of the ADIT card which has not been easily detected by trained INS personnel. Additionally, standardization of the card has been maintained. This standardized, high-quality card provides INS enforcement activities with a valuable identification tool even when the supporting computer system is not used.

The ADIT System has evolved in response to changes made by INS management. These changes were the result of exhaustive studies of the Service's needs as well as lessons learned in the employment of the system. For instance, a major decision was made to defer deployment of machine card readers at ports of entry until closer coordination in the use of machine-readable technology could be effected between INS and other government agencies. INS, the Department of State and the US Customs Service have been engaged in a continuing dialogue regarding machine-readable passports, identification cards and the use of equipment for verifying these entry documents. In the meantime, primary reliance for computer verification of the cards has been shifted to the use of computer terminals. Our studies indicate that the use of terminals rather than card readers provides the most cost effective near term solution. As described in the INS Long Range ADP Plan, the use of card readers will become more viable in the longer term, as advances are made in the use of machine-reading technology, and as closer coordination of the respective government agencies takes place.

Presently, there are 63 INS locations which have direct access via computer terminal to the ADIT card database. By the end of FY 82, twenty-two new locations will be added, and by the end of FY 83, a total of 103 locations will be in this network. These terminals provide INS officers at field locations with the capability to positively compare the card data to the data contained in the INS database. Additionally, INS officers have, and are utilizing, the capability to call a base station from patrol vehicles and obtain relayed information from the computer database. This information, coupled with the many security features incorporated in the physical construction of the card, provide INS with the capability to intercept altered or counterfeit cards, and to detect imposters who attempt to use lost or stolen cards. More importantly, it provides a positive system for verifying the identity of lawful card holders.

My staff and I are available to provide any additional information which you may desire concerning this subject.

Sincerely,

FOR THE COMMISSIONER

Assistant to the Commissioner

PREPARED STATEMENT OF DORIS M. MEISSNER

Good morning, Mr. Chairman and Members of the Subcommittee. I am pleased to be here today on behalf of the Immigration and Naturalization Service (INS) to discuss the integrity of immigration documents as forms of identification.

From an INS perspective, document fraud is increasing in two major areas: (1) fraudulent documents are used to gain entry into the United States and, (2) within the United States, they enable persons here illegally as well as legally to apply for and receive benefits to which they are not entitled. On our international borders, many foreign nationals attempt to pass inspection at our ports of entry through impersonation of a legal document holder or with altered or counterfeit documents. Within the United States, fraudulent documents are used to support claims to legal residence and to gain benefits from federal, state, and local governments.

With the increased sophistication of fraud, the detection of bogus documents has become more difficult, and INS has waged a continuing battle to control their use. To aid in detecting this type of fraudulent activity, INS established a forensic document laboratory in 1979 to provide INS officers with scientific and technical expertise in the complex art of document fraud.

Previous testimony on the subject of the laboratory identified three major areas in which it can be valuable in combating fraud: (1) authenticating bona fide documents; (2) providing expert testimony in criminal prosecutions; and (3) training Service employees in the detection of fraudulent documents. However, the laboratory has also proven valuable in conceptualizing new mechanisms for enhancing the integrity of INS documents.

Besides the establishment of the laboratory, INS has taken other measures to combat document fraud. In response to your specific interests, I shall discuss briefly the major efforts we have initiated to date to curb the fraudulent use of immigration documents.

INS is actively participating with several agencies to stem the fraudulent use of identification. As an example of our efforts to curb the use of bogus identification by aliens, INS recently hosted a highly successful national three-day working conference. The conference was in connection with Project Baltimore and was directed at investigating illegal aliens' use of both fraudulent and legitimate identification to obtain social security cards and then secure employment or social benefit payments in the United States.

The Project Baltimore conference included participants from many INS offices as well as agents from the Department of Health and Human Services and Social Security Administration. Also attending were representatives of the Office of the Inspector General from the U.S. Department of Agriculture, and the Department of Education, as well as Canadian Immigration and the Royal Canadian Mounted Police. While attendees received training in state-of-the-art investigative methods, the major success of the conference was the increased awareness of, and cooperation in interagency task force investigations of aliens using fraudulent identification.

As mentioned in earlier testimony, the INS Forensic Document Laboratory has initiated a consortium, of all government agencies in the Washington area which have an interest in or a problem with document fraud. I believe that the exchange of information and ideas at this highly technical level can only result in increased document security.

I would like to share with you our findings that many agencies involved in the payment of social benefits to individuals are not generally aware of methods to determine an alien's legal status in the United States. As an indirect attack on aliens' fraudulent use of identification, INS is actively working to educate the employees of other Federal agencies in the necessity of determining an alien's status before granting benefits in order to remove ineligible aliens from unemployment, welfare, education, food stamps, housing and other social benefit programs.

A meeting was held in August with representatives of the Departments of Agriculture, Labor, and Health and Human Services, the Office of Management and Budget, and INS to combat the use of counterfeit Forms I-151. Towards that end, we are now working together and INS is distributing a list of the numbers known to be used on counterfeit Forms I-151.

The document which has recently received the most attention for its vulnerability to fraud is the I-94, an INS arrival and departure record. Meetings were held on June 14 and August 18, 1982, to prepare for the establishment of an I-94 interagency working group. In addition to representatives from INS Enforcement, Examinations and Operations Support, the meetings were attended by representatives from the Departments of Housing and Urban Development, Labor, Agriculture, and Health and Human Services. Specific agencies within these departments which also had representatives in attendance included the Social Security Administration, the Office of Refugee Resettlement, and the Food and Nutrition Service.

As INS has stated in the past, the form I-94 is intended for recording the admission and departure of aliens to and from the United States. Information recorded on this form will be entered into an automated system, beginning this January, to provide accurate and timely information on individuals and groups of nonimmigrants.

However, it is clear that in many cases, the I-94 is currently being accepted as a sole identifier. It is used for the issuance of driver's licenses, is sometimes used as the basis for assigning social security numbers to individuals such as refugees who cannot be expected to have other documentation and is often the only means for determining eligibility for certain benefits including food stamps, rent subsidies and others. The utilization and reliance solely on the I-94 document invites the potential for fraud, waste and abuse in many programs.

INS is approaching this issue on two fronts: to educate benefit granting programs of the limitations of the form I-94 as a sole identification document and to provide a secure form of documentation to those aliens entitled to benefits. With respect to the first approach, on July 16, 1982, INS sent a letter to the departments and agencies which were represented at the I-94 working group meetings and reiterated that the I-94 had been developed by INS for statistical purposes only. The letter was also sent to the Department of Motor Vehicles in each state, and expressed our feeling that inter-agency efforts are required to identify a practical and reliable way of addressing the identification requirements needed by various agencies. Responses have been received from several state and federal agencies, and I am confident that educating these agencies in the shortcomings of the I-94 as an identifier will help reduce fraud and abuse.

INS is presently issuing experimental, secure identification documents to Haitians being released under the court order in Louis v. Nelson. This document, which is modeled after the ADIT card, will improve control of aliens in this class by utilizing forensic features built into the document design in conjunction with an automated data base on card holders. Experience gained in this program will provide valuable information on how to best document other groups of aliens admitted or paroled into the United States who are entitled to benefits while in the United States. We are eager to assess the results -- in terms of cost and benefits -- of this new program.

Development of the ADIT Program began in 1975. Its purpose was to develop a standardized system for providing positive identification for aliens entering the United States. Significant development efforts have been expended to accomplish this task. The basic concepts driving these efforts are the development of a data collection system, the production of secure machine-readable identification cards for permanent resident aliens and border crossers, and the development of a system of computer verification of the cards at United States ports of entry and INS field offices. As envisioned, the integration of these three components of the ADIT system are necessary to insure its security. Identification can be achieved solely by examining a card. However, positive verification of information pertaining to the card holder can only be achieved by accessing the on-line ADIT computer records which provide examiners with accurate information on the identification and current status of the card and its lawful holder. The initial ADIT concept called for computer verification of the cards by card readers in primary inspection lanes, and by computer terminals in secondary inspection stations at ports of entry and other INS field offices. However, the process is currently being implemented by use of computer terminals and secondary inspection to verify information pertaining to the card holder against the automated file. In primary lanes a visual inspection of the card is employed in conjunction with the inspection to determine admissibility.

As I mentioned, this I-94 is an adaption of the ADIT card. The subcommittee has expressed an interest in ADIT, and I would like to present to you some information on the ADIT program's development and evolution into the system as we know it today.

The ADIT Program developed a system which has proven effective. To date, approximately 3 million highly secure, machine-readable cards have been produced and issued. The cards are produced at a centralized contractor-operated facility under strict government counterfeiting. Additionally, standardization of the card has been maintained. This standardized, high-quality card provides INS enforcement activities with a valuable identification tool even when the supporting computer system is not used.

The ADIT System has evolved in response to changes made by INS management. These changes were the result of exhaustive studies of the Service's needs, as well as lessons learned in the employment of the system. For instance, a major decision was made to defer deployment of machine card readers at ports of entry until closer coordination in the use of machine-readable technology could be effected between INS and other government agencies. INS, the Department of State and the U.S. Customs Service have been engaged in a continuing dialogue regarding machine-readable passports, identification cards, and the use of equipment for verifying these entry documents. In the meantime, primary reliance for computer verification of the cards has been shifted to the use of computer terminals. Our studies indicate that the use of terminals rather than card readers provides the most cost-effective near-term solution. As described in the INS Long Range ADP Plan, the use of card readers will become more viable in the longer term, as advances are made in the use of machine-reading technology, and as closer coordination of the respective government agencies takes place.

Presently, there are 63 INS locations which have direct access via computer terminal to the ADIT card data base. By the end of FY '82, 22 new locations will be added, and by the end of FY '83, a total of 163 locations will be in this network. These terminals provide INS officers at field locations with the capability to positively compare the card data to the data contained in the INS data base. Additionally, INS officers have, and are utilizing the capability to call a base station from patrol vehicles and obtain relayed information from the computer data base. This information, coupled with the many security features incorporated in the physical construction of the card, provides INS with the capability to intercept altered or counterfeit cards, and to detect imposters who attempt to use lost or stolen cards. More importantly, it provides a positive system for verifying the identity of lawful card holders.

In response to another of your interests relating to document fraud, INS has reviewed the 1961 Attorney General opinion in Matter of S- and B-C-, 9 I. & N. Dec. 436, as implemented by the State Department. We feel that this opinion adequately addresses the issue of misrepresentations by aliens seeking to enter the United States. According to that decision, a misrepresentation under section 212(a)(19) of the Act is material if the alien is excludable on the true facts or if the misrepresentation tends to shut off a line of inquiry which is relevant to the alien's eligibility and which might well have resulted in a proper determination that the alien be excluded.

The intent of Congress, in enacting section 212(a)(19), was to keep aliens from trying to enter the United States by fraud or willful misrepresentation. Not penalizing an alien for conduct of this type when a fraud or misrepresentation is discovered would encourage this conduct in others. In both S- and B-C-, supra, and the Foreign Affairs Manual, it is pointed out that the penalty under section 212(a)(19) is severe in that it is a permanent excludability.

As the Attorney General stated in his opinion, the misrepresentation should therefore at least have "some tendency to enable the alien to obtain documents or entry which he might not have obtained without it." This opinion is as valid today as it was in 1961. In view of the severity of the penalty, an alien should not be penalized for an innocent misrepresentation or for a misrepresentation which did not enable him or her to gain an immigration benefit.

Regarding the sharing of records of deportation, INS routinely provides information to the State Department on the following classes of alien deportees:

1. Those of the subversive, criminal, immoral or narcotic classes. Notification of deportation is provided in advance to the Visa Office.

2. Those fraudulently using immigrant or nonimmigrant visas. Reports are made to the Visa Office.

3. Those fraudulently using United States passports. Telephonic and follow-up written reports are made to the Passport Office.

In addition, INS is in the process of converting the manual deportation docket to an interim automated system. Consideration has been given to either providing a computer listing of deportees to the Department of State or actually providing them access to the system so that it can be queried prior to issuance of a visa.

I appreciate the opportunity to testify before the Subcommittee and hope that I have addressed your interests. I am sure that we share many of the same concerns in the use of INS documents as identifiers, and we at INS appreciate your interest in this issue.

PREPARED STATEMENT OF JOHN A. SVAHN

MR. CHAIRMAN, I WELCOME THE OPPORTUNITY TO APPEAR BEFORE THIS SUBCOMMITTEE TO DISCUSS THE USE OF THE SOCIAL SECURITY CARD AS AN IDENTITY DOCUMENT. I WOULD LIKE AT THE OUTSET TO CLARIFY WHAT IS KNOWN ABOUT MISUSE OF THE SOCIAL SECURITY CARD AND NUMBER AND TO DESCRIBE THE STEPS WE ARE TAKING TO COMBAT IT. I WILL THEN BRIEFLY REVIEW THE DEVELOPMENT OF THE USE OF THE SOCIAL SECURITY NUMBER, OR SSN, BOTH FOR SOCIAL SECURITY PURPOSES AND IN OTHER FEDERAL AND STATE PROGRAMS. LASTLY, I WILL DESCRIBE SOME OF THE ISSUES THAT WOULD BE INVOLVED IN ANY EFFORT TO MAKE THE SOCIAL SECURITY CARD A RELIABLE PERSONAL IDENTIFICATION DOCUMENT AND ADDRESS SPECIFIC QUESTIONS REGARDING OUR SSN ISSUANCE PROCEDURES AND DISCLOSURE POLICY ON WHICH YOU ASKED ME TO COMMENT.

SSN MISUSE AND STEPS TO COMBAT IT

THERE ARE VARIOUS ESTIMATES OF THE COST OF FALSE IDENTIFICATION, RANGING UP TO $15 BILLION AND MORE. I THINK WE NEED TO BE CLEAR ON WHAT THESE FIGURES MEAN AND WHAT THEY DON'T MEAN. THESE ESTIMATES INCLUDE A SPECTRUM OF GOVERNMENT PROGRAM AND COMMERCIAL LOSSES FROM CHECK FORGERY TO MANY TYPES OF FRAUD AGAINST GOVERNMENT AND BUSINESS. BY FAR THE LARGEST COST--$12 BILLION--HAS BEEN ATTRIBUTED TO ILLEGAL IMMIGRATION. IT IS CLEAR THAT THESE BIG NUMBERS DO NOT REPRESENT THE COSTS OF SSN FRAUD, NOR DO THEY REPRESENT LOSSES IN SOCIAL SECURITY BENEFITS OR EVEN IN FEDERAL BENEFITS GENERALLY.

THE FACT IS THAT THERE IS NO ESTIMATE OF THE COSTS OF MISUSE OF THE SOCIAL SECURITY CARD AND NUMBER. WE DO KNOW, HOWEVER, FROM THE CASES THAT HAVE BEEN INVESTIGATED THAT THE SOCIAL SECURITY CARD AND NUMBER DO OFTEN CONTRIBUTE TO PERPETRATION OF FRAUD SCHEMES USING FRAUDULENT IDENTITY. USUALLY, THE SSN CARD IS ONLY ONE OF A WHOLE PACKET OF IDENTIFICATION DOCUMENTS USED IN SUCH SCHEMES. NEVERTHELESS, WE HAVE UNDERTAKEN A NUMBER OF STEPS TO STRENGTHEN THE INTEGRITY OF THE SOCIAL SECURITY CARD AND SSN ISSUANCE PROCESS.

o COUNTERFEIT-RESISTANT SOCIAL SECURITY CARDS

FIRST, AS YOU KNOW, THE SOCIAL SECURITY ADMINISTRATION EXPECTS TO BEGIN ISSUING NEW AND REPLACEMENT CARDS ON COUNTERFEIT-RESISTANT PAPER SOMETIME IN 1983. THE IDEA OF MAKING THE SOCIAL SECURITY CARD MORE COUNTERFEIT-RESISTANT HAS BEEN DISCUSSED BY A NUMBER OF GROUPS OVER THE LAST FEW YEARS. THE ADVANTAGES OF THIS ACTION ARE THAT IT IS VERY INEXPENSIVE, CAN BE INTRODUCED WITHOUT CHANGES TO THE SOCIAL SECURITY CARD ISSUANCE SYSTEM AND WILL MAKE THE CARD MORE DURABLE AND MORE DIFFICULT TO ALTER. I WILL DISCUSS THIS STEP IN MORE DETAIL IN A MOMENT.

o FRAUD AWARENESS

SECOND, WE HAVE TRAINED SOCIAL SECURITY FIELD EMPLOYEES WHO TAKE SSN APPLICATIONS TO RECOGNIZE COUNTERFEIT AND ALTERED

IMMIGRATION DOCUMENTS. I WILL ALSO DISCUSS THIS STEP IN DETAIL LATER.

- ELECTRONIC PROCESS TO ISSUE SOCIAL SECURITY NUMBERS

  THIRD, A NEW ELECTRONIC PROCESS WAS IMPLEMENTED NATIONALLY EARLIER THIS YEAR TO SPEED THE ISSUANCE OF SSN'S BY TRANSMITTING THE APPLICATION DATA BY WIRE DIRECTLY FROM THE LOCAL SOCIAL SECURITY OFFICE TO THE CENTRAL PROCESSING SYSTEM. THIS NEW PROCESS, CALLED DISTRICT OFFICE DIRECT INPUT, ALSO PROVIDES MORE STRINGENT CONTROLS OVER SSN APPLICATIONS AND AN OVERALL TIGHTENING OF THE SSN ISSUANCE SYSTEM THAT MAKES IT VERY DIFFICULT TO OBTAIN SSN'S FRAUDULENTLY BY BYPASSING ANY PART OF THE PROCESS.

- REMOVAL OF BLANK CARD STOCK FROM DISTRICT OFFICES

  FOURTH, THE NEW ELECTRONIC SSN ISSUANCE SYSTEM HAS ALLOWED US TO REMOVE ALL BLANK SOCIAL SECURITY CARD STOCK FROM DISTRICT OFFICES, WHERE IT COULD BE MORE EASILY LOST OR STOLEN, AND KEEP THE ENTIRE SUPPLY IN ONE CENTRAL LOCATION.

- SPECIALLY ANNOTATED SOCIAL SECURITY CARDS

  FIFTH, A PROMINENT LEGEND, "NOT VALID FOR EMPLOYMENT," HAS BEEN ADDED STARTING IN MAY 1982 TO THE FACE OF THE SOCIAL SECURITY CARDS ISSUED TO LEGAL ALIENS WHO ARE NOT AUTHORIZED TO WORK IN THE UNITED STATES.

o Deletion of Social Security Number from Card Stub

Sixth, we have stopped printing the SSN on the tear-off stub of Social Security cards. The SSN was printed on the stub originally so that if people stored the stub with their personal records, they would still have a record of their SSN if they lost the card itself. However, we found in the last few years that people who have not been issued an SSN have been using the stub of someone else's card to get a job or establish a false identity.

o Electronic Cross Check of Nonwork SSN's with INS

Seventh, we are striving to aid in the enforcement of immigration rules by sharing information with the Immigration and Naturalization Service (INS). In 1974, when Social Security began issuing cards to legal aliens not entitled to work in the United States, we also began a program to report to INS any of these numbers that subsequently had earnings reported to them. With the passage of the Tax Reform Act of 1976, we suspended this exchange of information until the Internal Revenue Service (IRS) could determine whether there was any authority in the Tax Reform Act under which it could be continued. We recently received advice from the IRS that SSA may begin releasing this information to INS once more, and the program is expected to be resumed later this year.

COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD

BEFORE DISCUSSING OUR DECISION TO PUT SOCIAL SECURITY CARDS ON MORE COUNTERFEIT-RESISTANT PAPER, I MUST EMPHASIZE THAT THE REAGAN ADMINISTRATION HAS REPEATEDLY STRESSED ITS OPPOSITION TO THE CREATION OF A NATIONAL IDENTITY CARD, THUS CONTINUING THE POSITION PREVIOUS ADMINISTRATIONS OF BOTH PARTIES HAVE TAKEN ON THIS ISSUE. THE PRINCIPAL CONCERN ABOUT THE CONCEPT OF A UNIVERSAL PERSONAL IDENTIFIER CENTERS AROUND QUESTIONS OF INDIVIDUAL PRIVACY. IN THIS AGE OF COMPUTERS AND AUTOMATED DATA BANKS, THE CREATION OF A SECURE IDENTIFICATION SYSTEM, COUPLED WITH A COMMON UNIVERSAL IDENTIFICATION NUMBER, COULD LEAD TO THE COMBINATION AND POSSIBLE MISUSE OF DETAILED INFORMATION ON AN INDIVIDUAL FROM VARIOUS GOVERNMENTAL AND PRIVATE DATA FILES.

IN ADDITION TO THESE PRIVACY CONCERNS, ANY EFFORT AT THIS POINT TO MAKE THE SOCIAL SECURITY CARD A TRULY "SECURE" POSITIVE IDENTIFICATION DOCUMENT ULTIMATELY MUST BE INEFFECTIVE BECAUSE THE CARD CAN ONLY BE AS RELIABLE AS THE DOCUMENTS ON WHICH IT IS BASED, AND THOSE DOCUMENTS ARE THEMSELVES VERY SUBJECT TO COUNTERFEITING AND MISUSE. FOR EXAMPLE, COUNTERFEIT AND FRAUDULENTLY OBTAINED VALID BIRTH CERTIFICATES, DRIVER'S LICENSES AND IMMIGRATION DOCUMENTS ARE AVAILABLE FOR SALE IN MOST MAJOR CITIES.

EVEN THOUGH WE OPPOSE ANY USE OF THE SSN AND CARD AS A NATIONAL IDENTIFIER, WE RECOGNIZE THAT THEY ARE WIDELY USED FOR IDENTIFICATION AND ARE OFTEN PERCEIVED AS BEING GOOD IDENTIFICATION DOCUMENTS. GIVEN THIS SITUATION, WE THINK WE HAVE A RESPONSIBILITY TO MAKE IT MORE DIFFICULT TO COUNTERFEIT AND MISUSE THE CARD WHEN WE CAN DO SO IN A COST-EFFECTIVE WAY.

ONE WAY TO DO THIS IS TO MAKE THE SOCIAL SECURITY CARD MORE RESISTANT TO TAMPERING AND COUNTERFEITING BY PRINTING THE NUMBER ON MORE SECURE PAPER. WE PLAN TO IMPLEMENT THIS CHANGE ONLY ON A PROSPECTIVE BASIS BECAUSE OF THE COST AND BURDEN ON THE PUBLIC OF REISSUING A NEW SOCIAL SECURITY CARD TO EVERYONE IN THE COUNTRY. I WANT TO STRESS THAT OUR DECISION TO PRINT NEW AND REPLACEMENT SOCIAL SECURITY CARDS ON SECURITY PAPER IS BASED ONLY ON THE FACT THAT THIS STEP WILL, AT A VERY LOW COST, EVENTUALLY MAKE COUNTERFEITING OF SOCIAL SECURITY CARDS VERY DIFFICULT.

PURPOSE OF THE SOCIAL SECURITY NUMBER AND CARD

TO PROVIDE THE BACKGROUND FOR OUR POSITION OF OPPOSITION TO USE OF THE SSN AS A PERSONAL IDENTIFIER, I WILL NOW TURN TO A BRIEF REVIEW OF THE DEVELOPMENT OF USE OF THE SOCIAL SECURITY NUMBER AND CARD. FOLLOWING THE PASSAGE OF THE SOCIAL SECURITY ACT IN 1935, THE SOCIAL SECURITY NUMBER WAS DEVISED ADMINISTRATIVELY AS A WAY TO KEEP TRACK OF THE EARNINGS OF PEOPLE WHO WORKED IN JOBS COVERED UNDER SOCIAL SECURITY. THE PURPOSE OF THE SOCIAL SECURITY CARD WAS TO SHOW THAT A NUMBER HAD BEEN ISSUED TO A WORKER AND TO ALLOW THE EMPLOYER TO ASSURE THAT HE HAD THE CORRECT NAME AND SOCIAL SECURITY NUMBER FOR REPORTING EARNINGS FOR THAT INDIVIDUAL.

THE SOCIAL SECURITY BOARD DECIDED IN 1936 THAT SOCIAL SECURITY NUMBERS SHOULD BE ISSUED BASED ONLY ON AN INDIVIDUAL'S ALLEGATIONS ABOUT HIS OR HER NAME, DATE AND PLACE OF BIRTH, SEX, PARENTS' NAMES, ADDRESS, ETC. THERE WERE SEVERAL REASONS FOR THIS DECISION.

First, because some 30 million numbers had to be issued in a short period of time, the process had to be as simple as possible.

Second, there was little or no real incentive for an individual to try to obtain more than one SSN for the purpose of defrauding the Social Security program because benefits are dependent on many years of covered employment. Manipulating earnings over a lifetime among more than one SSN "identity" to gain more benefits than could be received under one identity was theoretically possible, but thought to be unlikely in practice.

Finally, at the inception of the Social Security program there was a great deal of public concern about the implications of the Government keeping track of people on a large scale, and rigorous issuance procedures for Social Security numbers could have appeared to substantiate those concerns.

At that time, in addition to talk of the danger of a "police state," employees were concerned that employers might misuse information in Social Security records regarding their age, race, family history or previous work history. Employers also were concerned about the use that might be made of information they provided. To meet these fears, the Social Security Board issued a press release on November 23, 1936, the day before applications for Social Security numbers were distributed to the public, stating that ". . . the information required of any worker on this (application) Form would be regarded as confidential within Government sources. Only the worker himself, or his immediate family, or Government employees having official responsibility in connection with the social security files will have access to this information."

In its very first regulation, issued on June 15, 1937, the Social Security Board subsequently formalized its pledge that information obtained for issuing SSN's would be kept confidential and only used for Social Security purposes. This pledge of confidentiality has been an important factor in the cooperation both employers and employees have shown over the years in providing required information to SSA.

Other Government Uses of the SSN

In spite of the narrow intended purpose of the Social Security number and card and the lack of rigorous verification of identity in the number issuance process, use of the familiar Social Security card and number as a convenient, if informal, means of identifying people has grown over the years.

In 1961, the then Civil Service Commission established a numerical identification system for all Federal employees using the SSN as the identifying number. The authority for this step was Executive Order 9397, issued in 1943, which required Federal agencies to use the SSN when setting up any new administrative system for identifying individuals. The next major non-Social Security related use of the SSN occurred in 1962, when the Internal Revenue Service adopted the SSN as its official taxpayer identification number. In the 1960's, the computer revolution-- and the simplicity of using a standard number that most people

ALREADY HAD FOR COMPUTER RECORDKEEPING--PROVIDED THE INCENTIVE FOR THE WIDESPREAD SWITCHOVER WITHIN THE FEDERAL GOVERNMENT TO THE SSN AS A MEANS OF IDENTIFYING PEOPLE. FOR EXAMPLE, IN 1967 THE DEPARTMENT OF DEFENSE STARTED USING THE SSN IN LIEU OF THE MILITARY SERVICE NUMBER TO IDENTIFY PERSONNEL IN THE ARMED FORCES. ALSO, USE OF THE SSN FOR COMPUTER AND OTHER RECORDKEEPING SYSTEMS SPREAD BEYOND THE FEDERAL GOVERNMENT TO STATE AND LOCAL GOVERNMENTS, AND, IN THE PRIVATE SECTOR, TO BANKS, CREDIT BUREAUS, HOSPITALS AND EDUCATIONAL INSTITUTIONS.

THE SOCIAL SECURITY AMENDMENTS OF 1972

THE FIRST STATUTORY EXPANSION OF SSN USAGE CAME IN 1972 WHEN CONGRESS AMENDED THE SOCIAL SECURITY ACT TO REQUIRE THAT SSA ISSUE NUMBERS TO ALL LEGALLY ADMITTED ALIENS AUTHORIZED TO WORK IN THE UNITED STATES AT ENTRY AND TAKE AFFIRMATIVE STEPS TO ISSUE SSN'S TO ANYONE RECEIVING OR APPLYING FOR ANY BENEFIT PAID FOR BY FEDERAL FUNDS. THIS CHANGE WAS MOTIVATED BY CONGRESSIONAL CONCERN ABOUT WELFARE FRAUD AND THE POSSIBILITY OF ALIENS NOT AUTHORIZED TO WORK IN THIS COUNTRY DOING SO.

IT COULD BE INFERRED FROM THE 1972 LEGISLATION THAT THE CONGRESS DID NOT INTEND FOR SSN'S TO BE ISSUED TO ILLEGAL ALIENS OR TO ALIENS WHO ARE ADMITTED TO THE UNITED STATES TEMPORARILY BUT WITHOUT EMPLOYMENT AUTHORIZATION. IT WAS QUICKLY REALIZED, HOWEVER, THAT THOSE ALIENS LAWFULLY ADMITTED, BUT NOT AUTHORIZED TO WORK IN THIS COUNTRY, COULD HAVE LEGITIMATE NEED FOR SSN'S FOR

PURPOSES OTHER THAN WORK--FOR EXAMPLE, OPENING BANK ACCOUNTS, BUYING STOCKS, FILING IRS TAX REPORTS ON INVESTMENT INCOME, OBTAINING DRIVERS' LICENSES IN SOME STATES, ETC. TO MEET THIS NEED, SSA AGREED AFTER CONSULTATION WITH THE SENATE FINANCE COMMITTEE TO ASSIGN SSN'S FOR NONWORK PURPOSES ONLY TO LEGAL ALIENS, WITH THE UNDERSTANDING THAT SSA INTERNAL RECORDS, BUT NOT THE CARD ITSELF, WOULD BE MARKED AND, IF EARNINGS WERE REPORTED FOR ONE OF THESE SSN'S, THE IMMIGRATION AND NATURALIZATION SERVICE WOULD BE NOTIFIED THAT THE ALIEN WAS WORKING IN VIOLATION OF HIS OR HER CONDITIONS OF ADMITTANCE.

AS I NOTED EARLIER, THE TAX REFORM ACT OF 1976 STOPPED THIS NOTIFICATION UNTIL THE INTERNAL REVENUE SERVICE RECENTLY REAPPROVED THE RELEASE OF EARNINGS INFORMATION TO INS.

THE PRIVACY ACT OF 1974

HAVING PUT IN THE LAW FOR THE FIRST TIME IN 1972 A SPECIFIC REQUIREMENT FOR ISSUANCE OF THE SSN, THE CONGRESS MADE CLEAR IN THE PRIVACY ACT OF 1974 THAT IT WAS CONCERNED ABOUT ANY FURTHER EXPANSION OF USE OF THE NUMBER. SECTION 7 OF THE PRIVACY ACT MADE IT UNLAWFUL FOR ANY FEDERAL, STATE OR LOCAL GOVERNMENT AGENCY TO DENY ANY RIGHT, BENEFIT OR PRIVILEGE PROVIDED BY LAW BECAUSE AN INDIVIDUAL REFUSES TO DISCLOSE HIS OR HER SSN UNLESS THE AGENCY HAD USED THE SSN IN A SYSTEM OF RECORDS FOR WHICH DISCLOSURE OF THE NUMBER WAS REQUIRED BY STATUTE OR REGULATION ADOPTED BEFORE 1975 OR THE AGENCY HAD FEDERAL STATUTORY AUTHORITY TO REQUIRE THE SSN. SUCH STATUTORY AUTHORITY WAS SUBSEQUENTLY PROVIDED FOR THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM IN 1975, AND FOR THE FOOD STAMP PROGRAM IN 1977.

THE TAX REFORM ACT OF 1976

THE AMENDMENTS TO THE SOCIAL SECURITY ACT CONTAINED IN THE TAX REFORM ACT OF 1976 FURTHER ENLARGED THE SPHERE OF AUTHORIZED SSN USE. THESE AMENDMENTS PROVIDED THAT A STATE MAY USE THE SSN IN THE ADMINISTRATION OF "ANY TAX, GENERAL PUBLIC ASSISTANCE, DRIVER'S LICENSE, OR MOTOR VEHICLE REGISTRATION LAW WITHIN ITS JURISDICTION" AND IT AUTHORIZED THE STATES TO REQUIRE INDIVIDUALS AFFECTED BY SUCH LAWS TO FURNISH THEIR SSN'S TO THE STATES. ANOTHER SECTION OF THE TAX REFORM ACT PROVIDED A STATUTORY BASIS FOR USE OF THE SSN AS THE OFFICIAL TAXPAYER IDENTIFICATION NUMBER.

THE 1976 AMENDMENTS ALSO MADE IT A VIOLATION OF THE SOCIAL SECURITY ACT TO MISUSE THE SSN FOR ANY PURPOSE. THIS CHANGE WAS AN EXPANSION OF THE PREVIOUS PROVISION WHICH GENERALLY LIMITED VIOLATIONS FOR MISUSE TO CASES WHERE A PERSON WAS ATTEMPTING TO IMPROPERLY OBTAIN SOCIAL SECURITY OR ANY FEDERALLY FUNDED BENEFITS. FINALLY, THE 1976 AMENDMENTS MADE IT A VIOLATION OF THE SOCIAL SECURITY ACT TO DISCLOSE OR COMPEL DISCLOSURE OF THE SSN OF ANY PERSON IN VIOLATION OF FEDERAL LAW. THIS PROVISION WAS ADDED, THE LEGISLATIVE HISTORY SUGGESTS, TO MAKE SURE THAT STATES WHICH WERE PERMITTED TO USE THE SSN FOR TAX, WELFARE, DRIVER'S LICENSE AND MOTOR VEHICLE PURPOSES COULD NOT REQUIRE THE NUMBER HOLDER TO DISCLOSE THE SSN FOR OTHER PURPOSES.

SELECTIVE SERVICE REGISTRATION

THE MOST RECENT LEGISLATION REGARDING USE OF THE SSN AUTHORIZED PUBLICATION OF REGULATIONS THAT WOULD REQUIRE A PERSON

TO PROVIDE HIS SSN WHEN REGISTERING WITH THE SELECTIVE SERVICE SYSTEM. THIS PROVISION, ENACTED AS PART OF THE DEFENSE AUTHORIZATION ACT OF 1982, ALSO GAVE THE PRESIDENT AUTHORITY TO REQUIRE THE SECRETARY OF HHS TO FURNISH TO SELECTIVE SERVICE THE NAMES, SSN'S, DATES OF BIRTH AND ADDRESSES OF MEN WHO ARE REQUIRED TO REGISTER. ACCORDING TO THE COMMITTEE REPORT, THIS USE OF THE SSN WAS AUTHORIZED BECAUSE THE SELECTIVE SERVICE REGISTRATION SYSTEM WAS LARGELY UNENFORCEABLE WITHOUT IT. LEGISLATION WAS REQUIRED IN ORDER TO AVOID POSSIBLE CONFLICT WITH THE PRIVACY ACT OF 1974, THE GENERAL THRUST OF WHICH WAS TO PROHIBIT FEDERAL GOVERNMENT AGENCIES FROM REQUIRING DISCLOSURE OF THE SSN WITHOUT SPECIFIC STATUTORY AUTHORITY.

PROBLEMS WITH MAKING THE SOCIAL SECURITY CARD SECURE

WITH REGARD TO THE CONSIDERATIONS THAT WOULD BE INVOLVED WITH ANY EFFORT TO MAKE THE SOCIAL SECURITY NUMBER AND CARD A "SECURE" IDENTIFIER, THERE ARE SEVERAL KEY POINTS:

o FIRST, THERE IS NO SUCH THING AS A TOTALLY NONCOUNTERFEITABLE CARD. THAT IS, THERE IS NO CARD WHICH CAN BE MADE ABSOLUTELY SECURE IF THE INCENTIVES FOR COUNTERFEITING ARE GREAT ENOUGH.

o SECOND, EVEN IF AN ABSOLUTELY SECURE CARD COULD BE DEVELOPED, ITS VALIDITY AS AN IDENTIFICATION DOCUMENT WOULD DEPEND UPON THE VALIDITY OF THE DOCUMENTS A PERSON PRESENTS AS PROOFS OF IDENTITY WHEN THE CARD IS ISSUED.

Currently, most such documents--birth certificates, immigration documents, driver's licenses, etc.--are very easy to alter or counterfeit. Thus, trying to create a new secure national identification document on existing proofs of identity would be like building the proverbial house upon the sand.

o Third, for the Social Security card or any other card to be a reliable personal identification document, it must be possible to reliably establish that the card belongs to the person presenting it. The current Social Security card contains only a name, a Social Security number, and a space for the person to sign the card if he or she wishes. Changing the card by adding a photograph and requiring that it be signed when issued are not very effective positive identifiers because people can modify their appearance, and signatures can be reproduced with practice. In addition, pictures and signatures on the card would require updating from time to time because appearances and signatures change considerably over a lifetime. More effective identifiers, such as fingerprints, require verification techniques that are expensive and that cannot be applied by nonexperts.

To be effective, a system creating a secure Social Security card would require that a new card be issued as quickly as

POSSIBLE TO EVERYONE IN THE COUNTRY. TOTAL REISSUANCE WOULD BE NECESSARY BECAUSE AS LONG AS TWO TYPES OF SOCIAL SECURITY CARDS WERE IN EXISTENCE THE OLD CARD WOULD HAVE TO BE ACCEPTED FOR THE FORESEEABLE FUTURE AS LEGITIMATE ANY TIME PEOPLE SAID THEY HAD NOT YET BEEN ISSUED THE NEW CARD. HOWEVER, AS I NOTED EARLIER, THE PROCESS OF VERIFYING IDENTITIES AND REISSUING EVERYONE A NEW CARD WOULD BE BOTH VERY COSTLY AND BURDENSOME ON THE PUBLIC.

ANOTHER CONSIDERATION REGARDING A "SECURE" CARD SYSTEM IS THAT, IN ADDITION TO THE FEDERAL GOVERNMENT'S COSTS, THE VERIFICATION PROCESS FOR ISSUING THE CARD WOULD HAVE A SEVERE IMPACT ON STATE AND LOCAL CUSTODIANS OF THE RECORDS NEEDED TO VERIFY AGE, IDENTITY, AND CITIZENSHIP OR ALIEN STATUS. THERE WOULD BE A VERY LARGE NUMBER OF REQUESTS FOR THE EVIDENCE IN THESE RECORDS. THIS WOULD RESULT IN DELAYS IN PEOPLE BEING ABLE TO GET THE DOCUMENTARY EVIDENCE THAT WOULD HAVE TO BE PRESENTED TO BE ISSUED THE NEW CARD--AND POSSIBLY IN DELAYS IN FILLING NORMAL REQUESTS FOR VITAL RECORDS SUCH AS ORIGINAL BIRTH CERTIFICATES.

SSN ISSUANCE AND VERIFICATION PROCEDURES

A SPECIFIC SUBJECT YOU ASKED THAT I ADDRESS IS THE INTERNAL SAFEGUARDS IN SSA'S SYSTEM FOR ISSUING SOCIAL SECURITY NUMBERS AND CARDS.

RECOGNIZING THAT USING THE SSN FOR OTHER THAN SOCIAL SECURITY PURPOSES BROUGHT WITH IT THE POTENTIAL FOR INCREASED FRAUD IN NON-SOCIAL SECURITY PROGRAMS; SSA BEGAN IN 1971 TO TIGHTEN UP THE ISSUANCE AND VERIFICATION OF SSN'S IN THE FOLLOWING WAYS:

- o By requiring evidence of identity of all first-time applicants aged 55 or older;
- o By transferring issuance of original SSN's from the local Social Security District Offices to the Baltimore Headquarters in order to exercise greater control; and
- o By computerizing all SSN information from former applicants so that all new requests could be electronically screened to avoid issuing multiple numbers.

The concern of the Congress about the integrity of the SSN was reflected in Social Security legislation in 1972 which required that SSN applicants submit evidence to establish their age, identity, and U.S. citizenship or lawful alien status before being issued numbers. These requirements were initially applied only to applicants age 18 or older and those who were foreign born. However, because these groups comprise less than 20 percent of the population applying for SSN's, in 1978 SSA expanded these requirements to ALL applicants for SSN's, including those requesting replacement cards. Present regulations contain the following evidentiary requirements:

- o Documentary evidence of age, identity, and citizenship or alien status is required of all applicants for SSN's regardless of age. For example, for a new SSN, an

APPLICANT NORMALLY MUST SUBMIT AT LEAST TWO FORMS OF ACCEPTABLE EVIDENCE, SUCH AS A BIRTH CERTIFICATE, BAPTISMAL RECORD, OR IMMIGRATION OR NATURALIZATION RECORDS;

- A PERSONAL INTERVIEW IS CONDUCTED WITH ALL SSN APPLICANTS AGED 18 AND OLDER WHO APPLY FOR NEW NUMBERS; AND
- STATE AND LOCAL AGENCIES WHICH ASSIST SSA BY TAKING APPLICATIONS FOR SSN'S FROM AFDC RECIPIENTS MUST USE EVIDENTIARY REQUIREMENTS THAT CONFORM TO SSA'S REQUIREMENTS.

BECAUSE THESE MORE STRINGENT DOCUMENTATION REQUIREMENTS WERE IMPLEMENTED IN THE LAST FEW YEARS, ABOUT 90 PERCENT OF SSN RECORDS FOR LIVING PEOPLE STILL ARE BASED STRICTLY ON THE NUMBERHOLDER'S ALLEGATIONS.

THE NEW DISTRICT OFFICE DIRECT INPUT PROCESS FOR CONTROLLING SSN APPLICATIONS THAT I DESCRIBED EARLIER IS A MAJOR RECENT STEP WE HAVE TAKEN TO SAFEGUARD THE ISSUANCE OF SSN'S.

FRAUD AWARENESS AND DOCUMENT TRAINING

IN ADDITION TO SYSTEMS AND PROCEDURAL CHANGES TO REDUCE THE POSSIBILITY OF FRAUD IN THE SSN ISSUANCE PROCESS, WE HAVE STARTED A PROGRAM TO TRAIN EMPLOYEES TO BE ALERT TO ATTEMPTS TO OBTAIN SSN'S FRAUDULENTLY. IN LATE 1981, SSA DEVELOPED, WITH THE HELP OF

THE IMMIGRATION AND NATURALIZATION SERVICE, SPECIAL TRAINING MATERIAL TO ENABLE ITS FIELD PERSONNEL TO RECOGNIZE COUNTERFEIT OR ALTERED IMMIGRATION DOCUMENTS. SPECIFIC EMPHASIS WAS PLACED ON THE MOST FREQUENTLY COUNTERFEITED FORM, THE 1972 VERSION OF THE FORM I-151, WHICH IS KNOWN AS THE ALIEN REGISTRATION CARD.

NOW, WHEN AN SSA EMPLOYEE REVIEWS AN IMMIGRATION DOCUMENT IN CONNECTION WITH AN SSN APPLICATION OR A BENEFIT CLAIM AND SUSPECTS THAT THE DOCUMENT IS EITHER FALSE OR ALTERED, THE APPLICANT IS ADVISED THAT THE DOCUMENT MUST BE VERIFIED WITH INS BEFORE THE APPLICATION CAN BE PROCESSED FURTHER. THE ACTUAL DOCUMENT--IF IT CAN BE RETAINED--OR A PHOTOCOPY IS FORWARDED TO INS, USING A SPECIAL 2-WAY ROUTING FORM. IF INS RETURNS THE ROUTING FORM TO SSA CONFIRMING THAT THE SUSPECT DOCUMENT IS INDEED INVALID, THE RETURNED FORM CONTAINS A SPECIFIC REQUEST UNDER SECTION 290(C) OF THE IMMIGRATION AND NATIONALITY ACT FOR SSA TO RELEASE TO INS THE FALSE DOCUMENT AND THE ADDRESS AND IDENTIFYING INFORMATION OF THE APPLICANT. SSA THEN FORWARDS THIS MATERIAL TO INS FOR ITS USE IN APPREHENDING THE ALIEN AND/OR FURTHER INVESTIGATING THE SOURCE OF THE FALSE DOCUMENT.

A NOTICE IS ALSO SENT TO THE SSN APPLICANT THAT THE APPLICATION IS BEING DENIED BECAUSE THE DOCUMENT PRESENTED COULD NOT BE VERIFIED. THE APPLICANT IS ADVISED TO CONTACT INS IF HE OR SHE QUESTIONS THE VERIFICATION. IN ADDITION, SINCE THERE IS ALSO A POTENTIAL VIOLATION OF SECTION 208(F) OF THE SOCIAL SECURITY ACT INVOLVED, COPIES OF THE APPLICATION, FALSE DOCUMENT AND RELATED VERIFICATION MATERIAL ARE SENT TO SSA'S FIELD INTEGRITY STAFF FOR REVIEW AND ANY NECESSARY ENFORCEMENT ACTION.

Applicants who refuse to permit us to retain or photocopy suspected false documents for verification have their applications denied at that point and no SSN is assigned.

We are now working to develop material to help field offices recognize other false documents, such as birth certificates, U.S. passports, driver's licenses, etc. We hope to have most of this training material ready for distribution to Social Security field offices by the end of 1982.

Disclosures of Social Security Information for Computer Matching

Another issue you asked me to discuss is the extent to which SSA shares with other agencies for computer matching purposes Social Security benefit eligibility information and SSN identification information. As I noted earlier, the Social Security Board promised complete confidentiality of Social Security information in 1936 in order to allay fears that information in the Social Security Administration files would be used for non-Social Security program purposes. This policy remained basically unchanged until passage of the Government in the Sunshine Act in 1976 (P.L. 94-409) mandated that information could not be withheld without specific statutory authority. Based on this act and the Privacy Act of 1974, SSA's disclosure policy was revised. This revised policy allows SSA to disclose under the "routine use" provisions of the Privacy Act information regarding eligibility, benefit amounts or other matters of benefit status in a Social

SECURITY PROGRAM TO OTHER INCOME-MAINTENANCE AND HEALTH-MAINTENANCE PROGRAMS IF THE INFORMATION IS RELEVANT TO DETERMINING ELIGIBILITY, BENEFITS OR POTENTIAL FRAUD IN THE OTHER PROGRAMS. HOWEVER, THE TAX REFORM ACT OF 1976 PROHIBITS DISCLOSURE OF EARNINGS INFORMATION DERIVED FROM TAX FORMS WITHOUT STATUTORY AUTHORITY.

IT HAS ALWAYS BEEN SSA'S POLICY TO VERIFY, USUALLY ON A REIMBURSABLE BASIS, THAT AN SSN AND NAME MATCH OUR SSN RECORDS. A PROBLEM ARISES, HOWEVER, WHEN AN AGENCY ASKS US TO PROVIDE NAMES FOR A LIST OF SSN'S OR PROVIDE SSN'S TO GO WITH A LIST OF NAMES. GENERALLY, SSA WILL PROVIDE THE SSN FOR A NAME ONLY WHEN THE REQUEST IS FROM A PROGRAM THAT HAS THE SAME GENERAL PURPOSES AS THE SOCIAL SECURITY PROGRAM; I.E., INCOME-MAINTENANCE AND HEALTH-MAINTENANCE, AND WE ARE PROVIDED ENOUGH INFORMATION TO POSTIVELY IDENTIFY THE PARTICULAR SSN HOLDER WITH THAT NAME.

PROVIDING NAMES FOR A LIST OF UNIDENTIFIED SSN'S, HOWEVER, IS, WE THINK, AN ENTIRELY DIFFERENT KIND OF REQUEST. FOR BOTH ROUTINE-USE DISCLOSURES UNDER THE PRIVACY ACT, AND FOR DISCLOSURES UNDER THE LAW-ENFORCEMENT EXEMPTION OF THAT ACT, WE FOLLOW SIMILAR PRINCIPLES IN DECIDING WHAT DISCLOSURES OF IDENTITY ARE APPROPRIATE. WE THINK THAT IT IS GENERALLY INAPPROPRIATE TO DISCLOSE THE IDENTITY OF THE PERSON TO WHOM AN SSN HAS BEEN ASSIGNED WHEN THAT SSN HAS BEEN INCORRECTLY, PERHAPS FRAUDULENTLY, SUBMITTED BY ANOTHER PERSON TO ANOTHER AGENCY. THIS POLICY IS BASED ON THE

BELIEF THAT THERE IS ORDINARILY NO NEED TO INVADE THE PRIVACY OF THE INNOCENT THIRD PARTY TO WHOM THE NUMBER HAS BEEN ASSIGNED BY DISCLOSING HIS OR HER IDENTITY TO THE INVESTIGATING AGENCY.

I SHOULD ADD THAT SSA RECOGNIZES THE IMPORTANCE AND PRIORITY OF CURRENT EFFORTS TO REDUCE ABUSE OF THE VARIOUS GOVERNMENTAL PROGRAMS, AND I PERSONALLY SUPPORT THESE EFFORTS.

MR. CHAIRMAN, THIS CONCLUDES MY STATEMENT.

PREPARED STATEMENT OF HON. DIEGO C. ASENCIO

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE

I. OVERALL STATEMENT

I VERY MUCH APPRECIATE THIS OPPORTUNITY TO APPEAR BEFORE YOU ON ISSUES RELATED TO THE FRAUDULENT USE OF FEDERAL IDENTITY DOCUMENTS. MY SPECIFIC RESPONSIBILITY IS FOR UNITED STATES PASSPORTS -- WHICH IDENTIFY AMERICAN CITIZENS, AND VISAS -- WHICH IDENTIFY FOREIGNERS SEEKING TO ENTER THE UNITED STATES. THE BUREAU OF CONSULAR AFFAIRS OF THE DEPARTMENT OF STATE WILL ISSUE NEARLY 4 MILLION PASSPORTS THIS YEAR WITH AN ESTIMATED 18 MILLION IN CIRCULATION. AMERICAN CONSULS AT OUR APPROXIMATELY 240 EMBASSIES AND CONSULATES OVERSEAS WILL ISSUE OVER 7 MILLION VISAS BY THE END OF THIS FISCAL YEAR.

I WANT TO EMPHASIZE, MR. CHAIRMAN, THAT WE TAKE PRIDE IN PROMOTING AND DEFENDING THE INTEGRITY OF THESE DOCUMENTS. THEY HAVE PLAYED A LONG AND HONORED ROLE IN THE HISTORY OF THIS REPUBLIC, AS WELL AS OF THE DEPARTMENT OF STATE AND ITS OVERSEAS POSTS. AS THIS SUBCOMMITTEE IS PARTICULARLY AWARE, WE ARE ENGAGED IN A CONSTANT STRUGGLE AGAINST THOSE WHO SEEK EITHER TO FORGE OR ALTER OUR DOCUMENTS, TO OBTAIN THEM BY MISREPRESENTATION, OR, IN SOME CASES, SIMPLY TO STEAL THEM.

BEFORE RESPONDING TO YOUR SPECIFIC CONCERNS, I WOULD LIKE TO OUTLINE THE CONTEXT IN WHICH WE SEEK TO EXERCISE OUR RESPONSIBILITIES.

FIRST, AMERICAN PASSPORTS AND VISAS CAN BE REGARDED AS VIRTUALLY GUARANTEED TICKETS FOR ENTRY INTO THE UNITED STATES. AS SUCH, THEY ARE A VALUABLE ITEM EXCEEDING BY FAR THE RATES OF APPRECIATION COMMONLY ASCRIBED TO MORE TANGIBLE COMMODITIES SUCH AS METALS, COLLECTIBLES OR NATURAL RESOURCES. IN SOME PARTS OF THE WORLD, PROSPECTIVE BUYERS HAVE REPORTEDLY BEEN READY TO PAY AS MUCH AS $10,000 FOR A VISA, REAL OR FORGED. AND WE SUSPECT THAT IN A FEW CASES THE PRICE COULD ACTUALLY BE MULTIPLES OF THAT FIGURE. THIS GROWTH MARKET WILL CONTINUE AS THE WORLD CONTINUALLY FACES POLITICAL INSTABILITIES, ECONOMIC DEPRIVATION AND INJUSTICE. FOR MANY PERSONS, HOWEVER, THE DIRECT MOTIVATION IS THE APPEAL OF LIVING IN THE UNITED STATES OR, ALTERNATIVELY, CRIMINAL GREED. AN AMERICAN PASSPORT CURRENTLY OFFERS THE ILLEGAL ALIEN THE BEST MEANS OF AVOIDING DETECTION, INCREASES THE NARCOTICS TRAFFICKER'S CHANCE OF MAKING A SUCCESSFUL DELIVERY, AND PROVIDES CRIMINAL FUGITIVES A MEANS WHEREBY TO AVOID APPREHENSION IN THE U.S. A VISA PROVIDES ACCESS TO AMERICAN OPPORTUNITY AND FREEDOM.

SECOND, WE HAVE TO MOVE SWIFTLY EVEN TO HAVE A CHANCE OF KEEPING UP WITH THE INVENTIVENESS AND RESOURCES OF THOSE SEEKING TO SUBVERT OUR SYSTEMS AND EFFORTS. ATTACHED TO THIS STATEMENT IS A LIST OF ANTI-FRAUD ACTIONS CARRIED OUT BY THIS BUREAU OVER THE PAST 19 MONTHS. HOWEVER, I WOULD BE THE FIRST TO ADMIT THAT WE NOT ONLY CONTINUE TO HAVE FRAUD PROBLEMS BUT, IN THE REAL WORLD, ALWAYS WILL. NONETHELESS, FROM THAT LIST LET ME CITE SEVERAL GENERAL APPROACHES WORTHY OF SPECIAL NOTE:

--FOR THE FIRST TIME, WE HAVE AN INTEGRATED BUREAU-WIDE ANTI-FRAUD PROGRAM FORMALLY COORDINATED WITH OTHER PARTS OF THE DEPARTMENT OF STATE AND EVEN WITH OTHER AGENCIES SUCH AS THE IMMIGRATION AND NATURALIZATION SERVICE (INS) AND THE BUREAU OF CUSTOMS OF THE TREASURY DEPARTMENT.

--OUR CONTINUING INVESTMENTS IN AUTOMATION ARE BEGINNING TO PAY OFF. PRODUCTION OF THE WORLD'S FIRST AUTOMATED MACHINE-READABLE PASSPORT (TDIS) WITH NEW SECURITY FEATURES WAS BEGUN IN FEBRUARY OF 1981. AUTOMATED IMMIGRANT AND NONIMMIGRANT VISA SYSTEMS ARE NOW OPERATIONAL IN SEVEN OF OUR LARGER VISA POSTS OVERSEAS. WE HAVE INITIATED WITH INS

AND CUSTOMS AN ACTIVE PROGRAM DESIGNED TO DEVELOP SYSTEMS, EQUIPMENT COMPATIBILITIES AND AUTOMATIC INTERCHANGE OF DATA THAT INCLUDES ANTI-FRAUD ASPECTS OF VISAS AND PASSPORTS. AUTOMATION WILL NOT ONLY PERMIT US TO KEEP ABREAST OF THE EXPANDING VOLUMES OF APPLICANTS THAT REFLECT THE EASE OF TRAVEL IN TODAY'S INTERDEPENDENT WORLD, BUT WILL ALSO ENABLE US TO TRANSFER SKILLED OFFICERS FROM MORE ROUTINE TASKS AND ALLOCATE THEM TO FUNCTIONS OR AREAS WHERE WE FACE MORE SERIOUS PROBLEMS, INCLUDING FRAUD.

--IN ALL CANDOR, PART OF OUR PROBLEM DERIVES FROM OUTMODED LEGISLATION AND PROCEDURES WHICH FORCE US TO HANDLE 20TH CENTURY PROBLEMS AND WORKLOADS WITH 19TH CENTURY TOOLS. A PARTICULAR CASE IN POINT IS REFLECTED IN THE MUTUAL INTEREST OF THE EXECUTIVE BRANCH AND THE SENATE IN OBTAINING A WAIVER OF NONIMMIGRANT VISAS FOR NATIONALS OF COUNTRIES WITH GOOD RECORDS IN CONFORMING TO OUR VISA REQUIREMENTS. I'M PLEASED THAT THE SENATE HAS PASSED A VERSION OF THE NONIMMIGRANT VISA WAIVER AS PART OF S. 2222, THE OVERALL IMMIGRATION REFORM BILL, AND THAT SIMILAR LEGISLATION IS PENDING IN THE HOUSE. IF APPROVED BY THE CONGRESS, WE CAN DRASTICALLY REDUCE LESS PRODUCTIVE VISA ROUTINES IN KEY COUNTRIES AND SHIFT OUR FOCUS TO WHERE THE REAL PROBLEMS ARE.

THIRD, IN PROTECTING AGAINST FRAUD WE MUST ALSO GUARD AGAINST MALFEASANCE -- FRAUD AIDED OR ABETTED BY OUR EMPLOYEES, EITHER AMERICAN OR FOREIGN. I AM PROUD TO STATE THAT DESPITE TEMPTATIONS BOTH SUBTLE AND DIRECT, THE NUMBER OF EMPLOYEES WHO HAVE SUCCUMBED IS VERY SMALL. OUR RECORD OF HONESTY, INTEGRITY AND PROFESSIONAL PRIDE IS A TESTAMENT TO THE QUALITY OF OUR OFFICERS AND EMPLOYEES IN THE U.S. AND AROUND THE WORLD.

FINALLY, IN ADDITION TO OUR EMPHASIS ON ANTI-FRAUD EFFORTS, THE BUREAU OF CONSULAR AFFAIRS IS THE SERVICE ARM OF THE DEPARTMENT OF STATE. ONE OF OUR PRIMARY TASKS IS TO FACILITATE QUICKLY AND EFFECTIVELY THE TRAVEL OF AMERICANS OVERSEAS AND THE ARRIVAL HERE OF ELIGIBLE FOREIGNERS AS BUSINESSMEN, STUDENTS, TOURISTS, FAMILY RELATIVES, ETC. OUR ANTI-FRAUD EFFORTS MUST NOT DETRACT UNDULY FROM THIS SERVICE, WHICH IS WIDELY EXPECTED BY THE PUBLIC AND THE CONGRESS.

II. SPECIFIC QUESTIONS

I WOULD NOW LIKE TO PROCEED TO THE SPECIFIC TOPICS RELEVANT TO THE BUREAU OF CONSULAR AFFAIRS (CA) MENTIONED IN YOUR LETTER OF AUGUST 24. IN DOING SO, I WILL DISTINGUISH WHERE APPROPRIATE AND FOR CLARITY THE PASSPORT AND VISA ASPECTS FROM EACH OTHER.

A. THE ACTIVITIES OF THE BUREAU OF CONSULAR AFFAIRS (CA) WITH RESPECT TO PASSPORT AND VISA FRAUD INVESTIGATIONS

PASSPORTS

HISTORICALLY, THE BUREAU OF CONSULAR AFFAIRS LOOKS PRIMARILY TO THE OFFICE OF SECURITY (SY) TO INVESTIGATE SUSPECTED PASSPORT FRAUD, AND TO THE INSPECTOR GENERAL OF THE FOREIGN SERVICE IF THAT FRAUD INVOLVES MALFEASANCE. HOWEVER, BECAUSE A SUBSTANTIAL AMOUNT OF PASSPORT FRAUD IS COMMITTED IN THE FURTHERANCE OF MAJOR CRIMINAL ACTIVITY, WE SEEK AND FREQUENTLY OBTAIN THE COOPERATION OF OUTSIDE LAW-ENFORCEMENT AGENCIES IF IT APPEARS THAT THE FRAUD WAS RELATED TO CRIMINAL ACTIVITY WITHIN THEIR JURISDICTION.

THE FBI HAS SINCE 1972 INVESTIGATED DECEASED IDENTITY CASES. IN OTHER CASES, THE CONSULAR BUREAU HAS REQUESTED JURISDICTION TO INCLUDE THE PASSPORT FRAUD CHARGE ALONG WITH OTHER CRIMINAL CHARGES. WE HAVE AGREEMENTS WITH THE U.S. CUSTOMS SERVICE TO INVESTIGATE CERTAIN CASES RELATED, FOR EXAMPLE, TO SMUGGLING, AND WITH INS TO INVESTIGATE PASSPORT FRAUD CASES PERPETRATED BY ALIENS. INS AGENTS ARE ROUTINELY CALLED INTO OUR PASSPORT AGENCIES FOR ARRESTS AT THE COUNTER. THE DRUG ENFORCEMENT ADMINISTRATION HAS EXERCISED JURISDICTION IN PASSPORT FRAUD CASES WHERE DRUGS WERE INVOLVED. IN ADDITION, WE ACTIVELY SEEK TO COOPT OTHER FEDERAL INVESTIGATIVE RESOURCES WHEN FEASIBLE. THE POSTAL INSPECTORS, SOCIAL SECURITY ADMINISTRATION, AND THE U.S. SECRET SERVICE HAVE EITHER EXPRESSED INTEREST OR CONDUCTED INVESTIGATIONS.

IN THIS REGARD WE ALSO CONDUCT TRAINING SEMINARS ON PASSPORT FRAUD FOR OTHER AGENCIES AND HAVE STIMULATED THEIR INTEREST IN FRAUD INVESTIGATIONS. OUR THIRTEEN PASSPORT AGENCIES AROUND THE COUNTRY ALSO KEEP IN CLOSE LIAISON WITH THE LOCAL OFFICES OF THESE AGENCIES, ENCOURAGING THEIR AGENTS TO VISIT AND CONSULT WITH OUR PASSPORT OFFICES. MANY DO SO ON A REGULAR BASIS.

VISAS

ATTEMPTS AT FRAUD ARE ENDEMIC TO VISAS. IN SOME AREAS OVERSEAS, OUR REFUSAL RATES EXCEED 70-80 PERCENT. IN OTHER AREAS, THE FRAUD RATE IS LESS THAN 2 PERCENT. OBVIOUSLY, WHILE EVERY CONSULAR SECTION OVERSEAS HAS AN IDENTICAL RESPONSIBILITY, ITS ANTI-FRAUD ORGANIZATION IS PROPORTIONAL TO THE CHALLENGE. IN EVERY CASE, HOWEVER, THE FIRST AND MOST EFFECTIVE LINE OF DEFENSE IS THE TRAINED, EXPERIENCED AND DEDICATED CONSULAR OFFICER "ON THE LINE" WHO MAY INTERVIEW FROM ONLY A FEW TO OVER A HUNDRED APPLICANTS DAILY.

ANTI-FRAUD INVESTIGATIONS ARE USUALLY CONDUCTED BY THE CONSULAR STAFF EXCEPT IN THOSE CASES WHERE INITIAL INVESTIGATIONS RAISE THE POSSIBILITY OF ORGANIZED CRIMINAL ELEMENTS OPERATING IN THE COUNTRY AS "VISA RINGS" OR OTHER ASSOCIATIONS. IN THOSE INSTANCES, THE CONSULAR SECTION FREQUENTLY REQUESTS THE REGIONAL SECURITY OFFICER (AS AVAILABLE) TO ASSIST IN WORKING WITH THE LOCAL GOVERNMENT.

THE REGIONAL SECURITY OFFICER ABROAD, ACTING ON BEHALF OF THE INSPECTOR GENERAL AND THE OFFICE OF SECURITY, IS RESPONSIBLE FOR ALL CASES CONCERNING ALLEGED AMERICAN OR FOREIGN NATIONAL EMPLOYEE MALFEASANCE RELATED TO VISAS. ONCE MALFEASANCE IS ALLEGED OR SUSPECTED, THE REGIONAL SECURITY OFFICER PLAYS THE LEADING ROLE, IN ORDER TO SAFEGUARD THE INTEGRITY OF THE INVESTIGATION.

B. THE DEPARTMENT'S MANAGEMENT OF PASSPORT AND VISA FRAUD CASES

THE BUREAU OF CONSULAR AFFAIRS IS RESPONSIBLE FOR ESTABLISHING POLICY AND PROCEDURES FOR BOTH CONSULAR OPERATIONS ABROAD AND PASSPORT OPERATIONS. UNDER MY DIRECTION, THE BUREAU'S RANKING DEPUTY ASSISTANT SECRETARY FOR CONSULAR AFFAIRS COORDINATES CONSULAR ANTI-FRAUD ACTIVITIES. HIS RESPONSIBILITIES INCLUDE THE INTEGRATION OF ANTI-FRAUD EFFORTS, OVERSIGHT OF CONSULAR ANTI-FRAUD TRAINING, INFORMATION DISSEMINATION, AND INTER-AGENCY COOPERATION. MODIFICATIONS TO EXISTING CONSULAR ANTI-FRAUD POLICY ARE FORMULATED AT THIS LEVEL.

EACH OF THE BUREAU'S THREE DIRECTORATES (PASSPORTS, VISAS, AND OVERSEAS CITIZENS SERVICES) IS RESPONSIBLE FOR ADMINISTERING AND DIRECTING ANTI-FRAUD EFFORTS ON A DAY-TO-DAY BASIS. FRAUD CASES ARE ANALYZED ON A CONTINUING BASIS TO UNCOVER PATTERNS, EVALUATE THE EFFECTIVENESS OF SCREENING PROCEDURES, AND OBTAIN INVESTIGATIVE RESULTS. THEY ALSO MAINTAIN LIAISON WITH OTHER FEDERAL AGENCIES WHOSE OPERATIONS ARE AFFECTED BY PASSPORT AND VISA FRAUD AND SEEK TO ENLIST THEIR COOPERATION AND ASSISTANCE IN DEVELOPING MORE EFFECTIVE PROGRAMS.

OUR FRAUD SPECIALISTS FOCUS ON SUCH MATTERS AS TIMELINESS OF INVESTIGATIVE SUPPORT, PROSECUTORIAL RESULTS, RESOURCE UTILIZATION, INTERNAL SAFEGUARDS, AND TECHNIQUES OF DOCUMENT SECURITY. THEY RECOMMEND CORRECTIVE ACTIONS AGAINST ANY SYSTEM-WIDE WEAKNESSES DISCOVERED. A VERY IMPORTANT ASPECT IS TO KEEP IN CLOSE TOUCH WITH OFFICERS AT POSTS ABROAD AND IN THE PASSPORT AGENCIES IN THE U.S. OFFICERS GOING TO OR PROCEEDING FROM POSTS OVERSEAS, FOR EXAMPLE, ARE BRIEFED INDIVIDUALLY IN ADVANCE OF THEIR ASSIGNMENT ON WHAT TO EXPECT AND DEBRIEFED ON THEIR RETURN.

THE DEPARTMENT HAS SET OUT GENERAL GUIDELINES AND PROCEDURES BY MEANS OF VARIOUS REGULATIONS AND INSTRUCTIONS IN THE FOREIGN AFFAIRS MANUAL, THE NEW ANTI-FRAUD HANDBOOK AND SPECIAL ANTI-FRAUD NOTICES AND CABLES. AS INDICATED IN THE ATTACHED LIST OF ACTIONS, A SEPARATE FULL-TIME ANTI-FRAUD POSITION HAS RECENTLY BEEN ESTABLISHED IN EACH PASSPORT AGENCY. ANTI-VISA FRAUD POSITIONS OVERSEAS RANGE FROM PART OF AN OFFICER (IN A SINGLE EMPLOYEE POST, FOR EXAMPLE) TO SEVERAL FULL-TIME EMPLOYEES IN A HIGH VOLUME POST WITH A HIGH RATE OF ATTEMPTED FRAUD.

AS PREVIOUSLY STATED, MOST FRAUD IS AND CAN ONLY BE DETECTED BY WELL-TRAINED PERSONNEL ON THE SPOT. WE ASSIST, HOWEVER, BY INFORMING POSTS OF SUSPICIOUS PATTERNS, SENDING OUT SPECIAL MANAGEMENT TEAMS TO IMPROVE OPERATIONS -- INCLUDING ANTI-FRAUD PROCEDURES IF NECESSARY -- AND USING THE INSPECTIONS CONDUCTED BY THE INSPECTOR GENERAL TO UNCOVER PREVIOUSLY UNKNOWN AREAS WHERE ANTI-FRAUD EFFORTS ARE NOT CONFORMING TO REGULATIONS OR NEED SUPPLEMENTAL GUIDANCE OR RESOURCES.

WHEREAS IN PASSPORT FRAUD THE GENERAL RULE IS TO SEEK APPREHENSION AND PROSECUTION, THERE IS MORE DISCRETION ON THE VISA SIDE BECAUSE OF THE SHEER NUMBERS INVOLVED (THE U.S. EMBASSY IN LONDON ISSUES 1,000,000 NONIMMIGRANT VISAS A YEAR) AND TOOLS AVAILABLE WITHIN THE IMMIGRATION AND NATIONALITY ACT. THERE CAN, FOR EXAMPLE, BE A SIMPLE REFUSAL OF THE VISA OR, IF THE CASE IS MORE SERIOUS, REFUSAL ON THE BASIS OF A WILLFUL CONCEALMENT OF A MATERIAL FACT WHICH RENDERS THE PERSON INELIGIBLE FOR A FUTURE VISA WITHOUT A SPECIFIC WAIVER. ALSO POSSIBLE IN SOME COUNTRIES IS PROSECUTION FOR PRODUCING WHAT IS USUALLY A FRAUDULENT STATE DOCUMENT. IF THE FRAUD IS NOT UNCOVERED UNTIL THE PERSON HAS ENTERED THE U.S., WE NOTIFY THE IMMIGRATION AND NATURALIZATION SERVICE FOR APPROPRIATE ACTION.

C. INTERNAL SAFEGUARDS PRESENT IN THE PASSPORT AND VISA SYSTEMS

PASSPORTS

THE INTERNAL SAFEGUARDS OF THE PASSPORT ISSUANCE SYSTEM ARE ELABORATE. THEY EXIST THROUGHOUT THE SYSTEM: FROM THE PRODUCTION AND ASSEMBLY OF THE BLANK PASSPORT BOOK THROUGH THE ADJUDICATION AND PRODUCTION PROCESSES TO DELIVERY BY HAND AT THE COUNTER OR BY MAIL.

BLANK PASSPORT BOOKS ARE PRODUCED BY THE GOVERNMENT PRINTING OFFICE (GPO) IN A SECURE, LIMITED-ACCESS FACILITY. THE MATERIALS ARE PROCURED FROM SOLE-SOURCE SUPPLIERS -- IN OTHER WORDS, THE PAPER STOCK, INKS AND DIES ARE UNIQUE TO PASSPORTS. TO DISCOURAGE COUNTERFEITING, AND MORE READILY DETECT ALTERATIONS, THE FINISHED BOOK IS BOUND WITH A UNIQUE STITCH. EACH PAGE CONTAINS HIDDEN ANTI-FRAUD MARKS. ONCE PRODUCED, EACH BLANK PASSPORT IS STRICTLY ACCOUNTED FOR NOT ONLY BY GPO, BUT BY THE PASSPORT-ISSUING OFFICES IN THE U.S. AND ABROAD UNTIL EACH BOOK IS EITHER ISSUED OR DESTROYED. ONCE ISSUED, A SPECIFIC BOOK IS MATED TO A SPECIFIC APPLICATION SO THAT WE CAN READILY DETERMINE IF, IN FACT, WE HAVE ISSUED A SPECIFIC BOOK TO A SPECIFIC PERSON. THESE SAFEGUARDS PROBABLY EXPLAIN WHY WE BELIEVE WE HAVE ENCOUNTERED LITTLE COUNTERFEITING OVER THE PAST SEVERAL YEARS. INSTEAD, THOSE SEEKING TO OBTAIN PASSPORTS FRAUDULENTLY ATTEMPT TO DO SO BY FILING FALSE APPLICATIONS FOR VALID PASSPORTS. NEVERTHELESS, THE INCREASING AVAILABILITY OF SOPHISTICATED EQUIPMENT IS CAUSE FOR CONCERN. FOR THAT REASON, THE BUREAU, IN CONCERT WITH GPO, INS AND OTHER AGENCIES, CONTINUES TO DEVELOP NEW OR REVISED SAFEGUARDS DESIGNED TO ENHANCE THE SECURITY OF THE BOOK AS WELL AS OF OUR INTERNAL PROCEDURES. FOR EXAMPLE, THE LAMINATION OF THE CRITICAL DATA PAGE OF THE PASSPORT IS AN EXAMPLE OF A RECENT INNOVATION IN THIS AREA. ANOTHER IS THE MACHINE-READABLE PORTION OF THE NEW TDIS PASSPORT.

VISAS

THE TWO TYPES OF VISAS--IMMIGRANT (IV) AND NONIMMIGRANT (NIV)--PRESENT DIFFERENT PROBLEMS AND REQUIRE DIFFERENT TYPES OF SAFEGUARDS. THE IMMIGRANT VISA CONSISTS OF A PRE-PRINTED, NUMERICALLY CONTROLLED FORM, DELIVERED SERIALLY TO POSTS ABROAD FROM WASHINGTON, D.C.

THE NONIMMIGRANT VISA, ON THE OTHER HAND, CONSISTS OF A STAMP WHICH MAY BE MORE VULNERABLE TO FORGERY AND ALTERATION. AS A CONSEQUENCE, WE PROVIDE SOME POSTS WITH COUNTERFOILS AS A MEANS OF REDUCING THE EASE OF SUBSTITUTION, ALTERATION, OR COUNTERFEITING. THE COUNTERFOIL DESIGN IS PERIODICALLY MODIFIED AND IMPROVED IN AN EFFORT TO PREVENT COUNTERFEITING OF THE COUNTERFOIL. IN THE REAL WORLD, THE PROCESS CONSISTS OF CONTINUED ESCALATION IN TECHNOLOGY.

AT MOST POSTS THE OFFICER'S SIGNATURE ON THE VISA IS PRODUCED BY A FACSIMILE SIGNATURE SLIDER INSERTED INTO THE VISA PLATE. THIS SIGNATURE SLIDER INCORPORATES THE SECURITY FEATURES OF THE VISA PLATE ITSELF, AND ITS USE IS CONSIDERED TO BE A MORE SECURE PROCEDURE THAN HAND-SIGNING EACH VISA. AS AN ADDED DIMENSION OF SECURITY, SIGNATURE SLIDERS AT HIGH FRAUD POSTS ARE CHANGED PERIODICALLY. THE DEPARTMENT INFORMS INS OF WHICH SIGNATURES ARE USED ON WHICH DATES, THEREBY PROVIDING INS OFFICERS AT PORTS OF ENTRY WITH AN ADDITIIONAL MEANS OF CHECKING THE VALIDITY OF VISAS PRESENTED FOR EXAMINATION.

AT HIGH FRAUD POSTS, THE VISA ISSUANCE PROCESS IS CONTROLLED AND MONITORED CLOSELY BY THE SUPERVISORY CONSULAR OFFICER AND HIS COLLEAGUES. EVERY STEP IN THE VISA PROCESS IS IMPORTANT: RECEPTION, DOCUMENT CHECKING, INTERVIEW, NAME CHECK AND ANY FILE CHECK, ACTUAL ISSUANCE OR REFUSAL, RECORDING, AND THE CLOSE MANAGEMENT OF DATA AND DISPOSITION OF DOCUMENTS. THE CONSUL MUST ALSO ENSURE THAT ALL CONTROLLED FORMS AND EQUIPMENT ARE UNDER PROPER CONTROL DURING THE WORKDAY AND UNDER SECURE LOCK AT OTHR TIMES.

THE SENSITIVE ITEMS OF THE VISA MACHINE ARE THE VISA PLATE ITSELF AND THE VISA RIBBON. BOTH ITEMS ARE CONTROLLED AND DIFFICULT TO DUPLICATE. THE VISA MACHINE, WHILE USUALLY OPERATED BY A FOREIGN SERVICE NATIONAL, IS LOCKED SO THAT THE PLATE AND RIBBON CANNOT BE REMOVED EXCEPT UNDER THE OBSERVATION AND CONTROL OF A CONSULAR OFFICER. PROPER PROCEDURES, HOWEVER, ARE AS IMPORTANT TO INTERNAL SAFEGUARDS AS ANY MECHANICAL DEVICE. IN ESSENCE, WE MUST DEFEND AGAINST THE OUTSIDER SEEKING TO SUBVERT THE SYSTEM AND AGAINST ANY EMPLOYEE WHO MIGHT BE TEMPTED BY EASY OPPORTUNITY.

D. THE FRAUD AWARENESS TRAINING PROGRAM FOR PASSPORT AGENCY EMPLOYEES AND CONSULAR OFFICERS

PASSPORTS

THE DIRECTORATE OF PASSPORT SERVICES HAS BEEN A LEADER IN THE FIELD OF TRAINING IN THE DETECTION OF FRAUDULENT CITIZENSHIP AND IDENTITY DOCUMENTS. THE EMPHASIS IS TO TRAIN EMPLOYEES TO DETECT PASSPORT FRAUD IN THE APPLICATION STAGE AND THUS UNCOVER THE FRAUD BEFORE THE PASSPORT IS ISSUED.

PASSPORT APPLICATIONS ARE ALSO TAKEN BY 3,500 ACCEPTANCE FACILITIES AT POST OFFICES AND CLERKS OF COURT THROUGHOUT THE COUNTRY. THE APPLICATIONS ARE THEN FORWARDED TO THE PASSPORT AGENCY FOR ADJUDICATION AND PROCESSING. TRAINING THESE AGENTS IS A COSTLY AND TIME-CONSUMING JOB. ONE OF THE FUNCTIONS OF THE NEW FULL-TIME ANTI-FRAUD COORDINATORS WILL BE TO ENHANCE THE TRAINING OF ACCEPTANCE AGENTS WITHIN THEIR GEOGRAPHIC AREAS. WE HAVE RECENTLY PROVIDED THE SOCIAL SECURITY ADMINISTRATION INFORMATION ON OUR TRAINING PROCEDURES TO AID IT IN DEVELOPING A TRAINING PROGRAM FOR THE DETECTION OF COUNTERFEIT BIRTH CERTIFICATES AND IDENTITY DOCUMENTS. WE BELIEVE THE RESULTING SSA PROGRAM MAY HELP US AS WELL IN THE TRAINING OF ACCEPTANCE CLERKS.

WE ARE NOW IMPROVING THE FRAUD TRAINING PROGRAM AT THE FOREIGN SERVICE INSTITUTE (FSI) IN CONCERT WITH VISA ANTI-FRAUD TRAINING.

BUT TRAINING IS NOT THE WHOLE ANSWER. UP TO NOW, A GREAT DEAL OF TIME AND EFFORT HAS BEEN DEVOTED TO THE MATTER OF COUNTERFEIT DOCUMENTS AND DEVELOPING TAMPER-PROOF IDENTIFICATION DOCUMENTS.

THIS IS NOT, AND NEVER WAS, A MAJOR PROBLEM. WHY USE A COUNTERFEIT BIRTH CERTIFICATE WHEN A REAL ONE CAN BE EASILY OBTAINED FROM ANY OF THE OVER 7,000 DIFFERENT STATE AND LOCAL OFFICES THAT CURRENTLY ISSUE BIRTH CERTIFICATES? THERE ARE NO UNIFORM STANDARDS, AND SAFEGUARDS TO PREVENT FRAUD PERPETRATORS FROM OBTAINING OTHER PEOPLES' BIRTH CERTIFICATES VARY FROM NONE TO ONLY MODERATE. ALL FRAUD PERPETRATORS, EXCEPT THE RANKEST AMATEURS, ALREADY KNOW THIS. ESPIONAGE AGENTS AND TERRORISTS HAVE KNOWN THIS AND HAVE USED IT SINCE AT LEAST THE 1920'S AS A MEANS OF ESTABLISHING A FALSE IDENTITY IN THE UNITED STATES AS A COVER FOR THEIR ACTIVITIES. THEY ESPECIALLY FAVOR THE USE OF IDENTITIES OF DECEASED INFANTS BECAUSE DEATH AND BIRTH CERTIFICATES ARE NOT MATCHED. I PREVIOUSLY MENTIONED THAT THE FBI CURRENTLY INVESTIGATES SUCH CASES. THEIR INTEREST IS UNDERSTANDABLE. ALTHOUGH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES SOME TIME AGO DEVELOPED A MODEL STATE VITAL STATISTICS ACT WHICH INCORPORATES A NUMBER OF PROVISIONS AND PROCEDURES THAT WOULD ESTABLISH SAFEGUARDS, FEW STATES HAVE EVINCED A GREAT DEAL OF INTEREST IN ADOPTING THE ACT. UNTIL WE HAVE THE UNIFORM STANDARDS CONTEMPLATED BY THAT ACT AND SIMILAR PROPOSALS, PASSPORT AND OTHER IDENTITY FRAUD WILL CONTINUE UNABATED, REGARDLESS OF HOW TAMPER-PROOF OUR PASSPORT AND OTHER ID DOCUMENTS ARE MADE.

THIS PROBLEM IS, OF COURSE, NOT UNIQUE TO THE PASSPORT BUSINESS: IT AFFECTS CREDIT CARDS, SOCIAL SECURITY CARDS, DRIVERS LICENSES, AND ANY OTHER MEANS OF IDENTIFICATION. A PASSPORT, HOWEVER, IS NOT A LIMITED TRANSACTION. IT IS AMERICAN CITIZENSHIP.

VISAS

THE BASIC CONSULAR COURSE OF THE DEPARTMENT'S FOREIGN SERVICE INSTITUTE (FSI), IS A FIVE-WEEK COURSE FOR ALL OFFICERS GOING ABROAD ON A FIRST TOUR IN A CONSULAR CAPACITY. THE VISA SEGMENT COVERS THE SUBJECT OF FRAUD EXTENSIVELY. A NUMBER OF NEWLY UPDATED VIDEO TAPES* DEAL WITH VISA ANTI-FRAUD TECHNIQUES. MOST SHOW ROLE PLAYS INVOLVING NIV APPLICANTS PURSUING COMMON FRAUDULENT ASPECTS OF THE VISA APPLICATION PROCESS. LECTURES ARE ALSO GIVEN ON THE SUBJECT OF FRAUD, INCLUDING INTERVIEWING TECHNIQUES, FRAUDULENT DOCUMENTS, FRAUDULENT PRACTICES, COUNTERFOILS, PHOTO SUBSTITUTION, AND SO ON. FINALLY, ALL STUDENTS PARTICIPATE IN INFORMAL DISCUSSIONS WITH OTHER OFFICERS ABOUT THE FRAUD SITUATIONS AT THEIR POSTS OF ASSIGNMENT.

IN ADDITION TO THE BASIC CONSULAR COURSE, THERE IS AN ANTI-FRAUD/MALFEASANCE SEGMENT IN THE NEW MID-LEVEL PROFESSIONAL DEVELOPMENT PROGRAM. THIS THREE-HOUR SEGMENT CONCENTRATES ON MATERIALITY, FALSITY, RELIANCE, KNOWLEDGE OF FALSITY, AND THE RULES OF PROBABILITY. OFFICERS FROM BOTH VISA SERVICES AND PASSPORT SERVICES PARTICIPATE IN THESE ANTI-FRAUD DISCUSSIONS.

FINALLY, THE FOREIGN SERVICE INSTITUTE, WITH HELP FROM THE BUREAU OF CONSULAR AFFAIRS, THE OFFICE OF SECURITY, THE IMMIGRATION AND NATURALIZATION SERVICE AND OTHER AGENCIES, CONDUCTS FOUR-DAY ANTI-FRAUD SEMINARS IN HIGH-FRAUD AREAS OF THE WORLD. IN 1981 REGIONAL SEMINARS WERE HELD AT ATHENS AND SAN JOSE AND IN 1982 IN BRIDGETOWN. ANTI-FRAUD TOPICS WERE ALSO A PROMINENT PART OF THE AGENDA AT REGIONAL CONSULAR CONFERENCES HELD SO FAR IN 1982 AT ROME, LISBON, KARACHI AND PLANNED FOR NAIROBI, SEOUL AND CARACAS.

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*SOME OF THE TAPES ARE ENTITLED: "CONSULAR MALFEASANCE"; "VISA MACHINE USE AND ABUSE": "VISA FRAUD OVERVIEW AND COUNTERFEIT VISAS"; "U.S. REFUGEE PROGRAM"; AND "THE NIV UNIT AND IV UNIT IN MANILA."

E. RESPONSE OF THE BUREAU OF CONSULAR AFFAIRS TO FRAUDULENT STATEMENTS MADE IN SUPPORT OF A VISA APPLICATION

WHEN A CONSULAR OFFICER SUSPECTS THAT A VISA APPLICANT, EITHER ORALLY OR IN WRITING, HAS MISREPRESENTED A FACT OR FACTS IN THE VISA APPLICATION PROCESS, HE CONSIDERS WHETHER THE APPLICANT MAY HAVE RENDERED HIMSELF INELIGIBLE TO RECEIVE A VISA UNDER SECTION 212(A)(19) OF THE IMMIGRATION AND NATIONALITY ACT.

THE SECTION OF THE LAW RENDERS INELIGIBLE:

> "ANY ALIEN WHO SEEKS TO PROCURE, OR HAS SOUGHT TO PROCURE, OR HAS PROCURED A VISA OR OTHER DOCUMENTATION, OR SEEKS TO ENTER THE UNITED STATES, BY FRAUD, OR BY WILLFULLY MISREPRESENTING A MATERIAL FACT.".

THE INTERPRETATION OF SECTION 212(A)(19) WHICH UNDER SECTION 103(A) OF THE IMMIGRATION AND NATIONALITY ACT, IS BINDING ON THE DEPARTMENT WAS RENDERED BY THE ATTORNEY GENERAL IN 1962. IN ORDER TO REACH A FINDING OF INELIGIBILITY UNDER THIS SECTION OF LAW, THREE ELEMENTS MUST BE PRESENT. A MISREPRESENTATION MUST BE MADE BY THE ALIEN, THE MISREPRESENTATION MUST BE WILLFULLY MADE, AND THE FACT MISREPRESENTED MUST BE MATERIAL.

A MISREPRESENTATION IS AN ORAL OR WRITTEN STATEMENT, ASSERTION, OR MANIFESTATION WHICH IS MADE TO A CONSULAR OFFICER CONTRARY TO FACT. SUCH A MISREPRESENTATION MUST BE MADE IN CONNECTION WITH A PERSONAL VISA APPLICATION, NOT ON BEHALF OF SOMEONE ELSE'S APPLICATION. WHEN THE MISREPRESENTATION IS MADE KNOWINGLY, INTENTIONALLY, OR DELIBERATELY, THE ELEMENT OF WILLFULLNESS IS PRESENT.

THE ATTORNEY GENERAL DEFINED MATERIALITY AS:

> "A MISREPRESENTATION MADE IN CONNECTION WITH AN APPLICATION FOR A VISA OR OTHER DOCUMENT, OR WITH ENTRY INTO THE UNITED STATES, IS MATERIAL IF EITHER (1) THE ALIEN IS EXCLUDABLE ON THE TRUE FACTS, OR (2) THE MISREPRESENTATION TENDS TO SHUT OFF A LINE OF INQUIRY WHICH MIGHT WELL HAVE RESULTED IN A PROPER DETERMINATION THAT HE BE EXCLUDED."

THE FIRST PART OF THE ATTORNEY GENERAL'S DEFINITION OF MATERIALITY PROVIDES FOR THOSE CASES WHERE THE TRUE FACTS OF THE MATTER DISCLOSE A SITUATION RENDERING THE ALIEN IPSO FACTO INELIGIBLE FOR A VISA AS A MATTER OF LAW. SUCH A SITUATION WOULD INVOLVE AN INDEPENDENT GROUND OF INELIGIBILITY, NAMELY ONE OF SUBSECTIONS OF 212(A)(SUCH AS CONVICTION OF A CRIME INVOLVING MORAL TURPITUDE (212(A)(9), ETC.).

THE SECOND PART OF THE DEFINITION IS CALLED THE "RULE OF PROBABILITY" BY THE DEPARTMENT. UNDER THIS RULE, A MISREPRESENTATION IS MATERIAL IF IT TENDS TO CUT OFF A LINE OF INQUIRY INTO FACTS WHICH MIGHT HAVE RESULTED IN A PROPER REFUSAL OF A VISA IF THE TRUTH HAD BEEN KNOWN. THE MISREPRESENTATION MUST HAVE THE PROPENSITY OR CAPACITY TO CUT OFF INVESTIGATION INTO FACTS WHICH ARE SIGNIFICANT, NOT JUST RELEVANT, FOR VISA ISSUANCE. IF, HOWEVER, THE CONSULAR OFFICER MAKES THE PROPER DECISION EVEN WITH THE LINE OF INQUIRY BEING SHUT OFF, THE MISREPRESENTATION IS NOT DEEMED TO BE MATERIAL.

F. THE PROCEDURES FOR DETECTING AND REFERRING SUSPECTED PASSPORT FRAUD CASES TO LAW ENFORCEMENT AGENCIES FOR FURTHER INVESTIGATION.

THE PRECISE PROCEDURES AND TECHNIQUES WE HAVE DEVELOPED AND USE FOR DETECTING PASSPORT FRAUD ARE SENSITIVE. HOWEVER, I CAN OUTLINE FOR YOU PUBLICLY THE PRINCIPLES UPON WHICH THEY ARE BASED.

IN BRIEF, WE DO NOT BELIEVE THAT ANYONE'S IDENTITY OR BONA FIDES HAS BEEN CONCLUSIVELY ESTABLISHED MERELY BECAUSE THEY POSSESS DOCUMENTS ISSUED IN A PARTICULAR IDENTITY, OR DOCUMENTS WHICH PURPORT TO ATTEST TO A PERSON'S IDENTITY. OUR EMPLOYEES ARE TRAINED TO LOOK BEHIND DOCUMENTS OR STATEMENTS, TO NOTE DISCREPANCIES OR INCONSISTENCIES, AND EXPLORE THEM UNTIL THEY ARE RESOLVED FAVORABLY OR UNFAVORABLY. THE ONGOING ANALYSIS OF ESTABLISHED FRAUD CASES HAVE ENABLED US TO IDENTIFY KEY PROFILE FACTORS. OUR RECOGNIZED PIONEER WORK IN THIS AREA HAS LED A NUMBER OF AGENCIES TO REQUEST US TO PROVIDE THEM WITH IDENTITY FRAUD DETECTION TRAINING AND MATERIALS.

I HAVE PREVIOUSLY DISCUSSED THE PROCEDURES FOLLOWED IN REFERRING SUSPECTED FRAUD CASES FOR FURTHER INVESTIGATION. THOSE PROCEDURES VARY DEPENDING UPON WHETHER DETECTION OCCURS BEFORE OR AFTER ISSUANCE OF THE PASSPORT, ON WHETHER IT IS DETECTED BY THE DEPARTMENT OR BY ANOTHER AGENCY DURING THE COURSE OF ITS OWN INVESTIGATIONS OF OTHER CRIMINAL ACTIVITY, AND, UPON WHETHER OR NOT, WHEN DETECTED, IT CAN BE PRESENTED FOR PROSECUTION WITHOUT FURTHER EXTENSIVE INVESTIGATION. ALSO, THE MANNER IN WHICH IT IS REFERRED MAY DEPEND UPON WHETHER THE SUSPECTED FRAUD IS ONE COVERED BY AN EXISTING AGREEMENT BETWEEN THE DEPARTMENT AND ANOTHER AGENCY.

IN TERMS OF PRIORITIES, WE GIVE A MUCH HIGHER PRIORITY TO A CASE IN WHICH WE BELIEVE THE UNDERLYING MOTIVE IS TERRORIST ACTIVITY THAN WE DO TO A CASE WHERE WE BELIEVE WE ARE DEALING WITH, FOR EXAMPLE, AN ILLEGAL ALIEN. IN THE CASE OF A SUSPECTED TERRORIST, BOTH THE OFFICE OF SECURITY (SY) AND THE FBI, AS WELL AS THE SECRET SERVICE, MIGHT MOUNT A JOINT INVESTIGATION ON AN URGENT BASIS. IN THE CASE OF THE ILLEGAL ALIEN, INS AND SY, INDIVIDUALLY OR JOINTLY, MIGHT UNDERTAKE AN INVESTIGATION. AND AGAIN, IF IN THE CASE OF A SUSPECTED ILLEGAL ALIEN PASSPORT FRAUD. AVAILABLE INFORMATION AND INTELLIGENCE INDICATED THE EXISTENCE OF AN ORGANIZED RING, THAT CASE WOULD RECEIVE A HIGHER PRIORITY THAN ONE IN WHICH THE SUSPECTED PASSPORT FRAUD APPEARS AS AN INDIVIDUAL ACT.

THAT COMPLETES MY PREPARED TESTIMONY.

THANK YOU.

PREPARED STATEMENT OF MARVIN L. GARRETT

MR. CHAIRMAN:

I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE TO DISCUSS WITH YOU THE ROLE OF THE OFFICE OF SECURITY WITH RESPECT TO PASSPORT AND VISA FRAUD INVESTIGATIONS AND THE RESOURCES AVAILABLE TO OUR OFFICE IN SUPPORTING THE BUREAU OF CONSULAR AFFAIRS AND THE OFFICE OF THE INSPECTOR GENERAL.

THE OFFICE OF SECURITY HAS THE RESPONSIBILITY FOR PROVIDING PROFESSIONAL INVESTIGATIVE SERVICES, BOTH DOMESTICALLY AND OVERSEAS, ON BEHALF OF THE DEPARTMENT OF STATE. SY HAS A NETWORK OF OFFICERS ASSIGNED TO 77 EMBASSIES ABROAD AND AT 29 LOCATIONS WITHIN THE UNITED STATES. DUE TO OUR PRESENCE AND ACCREDITATION OVERSEAS, WE HAVE ALSO PROVIDED INVESTIGATIVE SUPPORT FOR A LARGE NUMBER OF OTHER FEDERAL AGENCIES, PARTICULARLY THE DEPARTMENTS OF TREASURY, DEFENSE, JUSTICE AND THE OFFICE OF PERSONNEL MANAGEMENT.

TRADITIONALLY, THE OFFICE OF SECURITY HAS CONDUCTED PASSPORT FRAUD, VISA MALFEASANCE, AND GENERAL FRAUD INVESTIGATIONS FOR THE DEPARTMENT. FOR EXAMPLE, SINCE ENTERING INTO A SUPPORT AGREEMENT WITH THE INSPECTOR GENERAL APPROXIMATELY ONE YEAR AGO, WE HAVE RECEIVED 61 VISA MALFEASANCE AND 100 GENERAL FRAUD INVESTIGATIVE REQUESTS FROM THE IG AND HAVE SUCCESSFULLY COMPLETED 138 OF THESE INVESTIGATIONS.

WE HAVE, IN THE 1ST YEAR, SUCCESSFULLY PROSECUTED ONE AMERICAN OFFICER AND TERMINATED APPROXIMATELY 16 FOREIGN SERVICE NATIONAL EMPLOYEES FOR VISA MALFEASANCE.

IN THE GENERAL FRAUD AREA DURING THE LAST YEAR WE HAVE SUCCESSFULLY PROSECUTED TWO (2) DEPARTMENT EMPLOYEES AND FIVE CASES ARE PENDING IN THE COURT SYSTEM.

FROM JANUARY 1, 1982 TO SEPTEMBER 8, 1982 WE RECEIVED 171 PASSPORT FRAUD CASES AND HAVE CLOSED 94 OF THESE CASES. MANY OF THE OPEN CASES ARE COMPLETED BUT PENDING ARREST OR COURT ACTION. SINCE JANUARY OF THIS YEAR, WE HAVE REFERRED 128 CASES OF PASSPORT FRAUD TO THE ASSISTANT U.S. ATTORNEYS.

BEGINNING JULY 9, WE INSTITUTED NEW PROCEDURES WHEREBY SY FIELD OFFICES RESPOND TO INVESTIGATIVE REQUESTS DIRECTLY FROM THE FIELD PASSPORT AGENCIES. AS A RESULT WE HAVE OPENED 68 PASSPORT FRAUD CASES, PROJECTING TO AN ANNUAL TOTAL OF 408 CASES.

SINCE MOST OF THE ABOVE INVESTIGATIONS ARE TIME SENSITIVE, WE ARE CURRENTLY REORGANIZING AND CONSOLIDATING OUR INVESTIGATIVE FUNCTIONS INTO ONE DIVISION SO THAT WE CAN ENHANCE OUR ABILITY TO BE MORE RESPONSIVE TO THE INVESTIGATIVE NEEDS OF THE DEPARTMENT. OUR NEW DIVISION WILL HAVE FOUR BRANCHES WITH ONE BRANCH DEDICATED TO PASSPORT FRAUD AND ANOTHER DEDICATED TO THOSE INVESTIGATIONS CONDUCTED FOR THE IG. THIS BRANCH, THE GENERAL FRAUD AND MALFEASANCE BRANCH WILL BE RESPONSIBLE FOR THE CONSULAR MALFEASANCE AND GENERAL FRAUD INVESTIGATIVE PROGRAM AND THE DEVELOPMENT OF PLANS AND PROCEDURES TO ACCOMPLISH THAT MISSION. WITHIN THE BRANCH, WE ARE ESTABLISHING A CONSULAR MALFEASANCE SECTION AND A GENERAL FRAUD SECTION. THESE SECTIONS WILL DEVELOP AND INSTITUTE INVESTIGATIVE TECHNIQUES NEEDED TO SUCCESSFULLY PURSUE A WIDE VARIETY OF FRAUD CASES. THEY WILL DEVELOP AND MAINTAIN A WORKING LEVEL RELATIONSHIP WITH THE INSPECTOR GENERAL'S OFFICE, THE BUREAU OF CONSULAR AFFAIRS AND WITH THE DEPARTMENT OF JUSTICE TO INSURE PROPER COORDINATION TO RESOLVE OVERLAPPING RESPONSIBILITIES AND AUTHORITY, PARTICULARLY WITH OTHER FEDERAL AGENCIES.

TO ENABLE OUR AGENTS TO PRODUCE THE BEST RESULTS, WE HAVE ESTABLISHED A CRIMINAL INVESTIGATOR TRAINING COURSE FOR ALL NEW AGENTS AT THE FEDERAL LAW ENFORCEMENT TRAINING CENTER IN GLYNCO, GEORGIA. ADDITIONALLY, SELECTED AGENTS HAVE BEEN AND WILL CONTINUE TO RECEIVE SPECIALIZED TRAINING IN WHITE COLLAR CRIME. WE ARE IN THE FINAL DRAFT STAGE OF PUBLISHING A CRIMINAL INVESTIGATION HANDBOOK TAILORED TO OUR OWN SPECIALIZED NEEDS.

WE HAVE JUST IDENTIFIED THE OFFICERS THAT WILL COMPRISE THE NEW DIVISION, ALL OF WHOM HAVE HAD EXTENSIVE EXPERIENCE IN VARIOUS PHASES OF LAW ENFORCEMENT/CRIMINAL INVESTIGATIVE WORK.

PRESENTLY THE OFFICE OF SECURITY HAS 194 OFFICERS AT HEADQUARTERS, 130 IN THE DOMESTIC FIELD OFFICES, AND 108 OFFICERS OVERSEAS, ALL OF WHOM HAVE AS ONE OF THEIR PRIMARY FUNCTIONS INVESTIGATIONS. OTHER FUNCTIONS RELATE PRIMARILY TO PROTECTION OF LIFE, PHYSICAL AND TECHNICAL SECURITY. OUR FY-83 BUDGET INCLUDES 8 NEW POSITIONS TO SUPPORT OUR GENERAL FRAUD AND MALFEASANCE INVESTIGATIVE EFFORTS.

WE RECENTLY RECEIVED AUTHORITY AND FUNDING TO REFER LOWER PRIORITY ROUTINE BACKGROUND INVESTIGATIONS TO THE OFFICE OF PERSONNEL MANAGEMENT WITH WHOM WE HAVE AN AGREEMENT. WE ALSO HAVE RECEIVED APPROVAL FOR ESTABLISHING A CADRE OF APPROXIMATELY 20 CONTRACT EMPLOYEES (PRIMARILY RETIRED FBI AGENTS) WHO COULD BE USED TO CONDUCT SPECIAL BACKGROUND INVESTIGATIONS AS A FLEXIBLE RESOURCE FOR OUR FIELD OFFICE MANAGERS.

WITH THESE CHANGES, WE BELIEVE WE ARE IN A POSITION TO PROVIDE ASSURANCES TO OUR END USERS THAT WE CAN CONDUCT INVESTIGATIONS REFERRED TO US ON A TIMELY BASIS AND HOPEFULLY OF HIGH QUALITY.

THIS CONCLUDES MY STATEMENT MR. CHAIRMAN.

PREPARED STATEMENT OF ROBERT L. BROWN

MR. CHAIRMAN:

I WELCOME THIS OPPORTUNITY TO APPEAR BEFORE THE SUBCOMMITTEE TODAY TO DISCUSS THE ROLE OF THE OFFICE OF THE INSPECTOR GENERAL IN THE DEPARTMENT OF STATE'S EFFORTS TO COMBAT THE FRAUDULENT USE OF FEDERAL IDENTITY DOCUMENTS. BEFORE TURNING TO THE SPECIFIC QUESTIONS POSED BY THE SUBCOMMITTEE, IT WOULD BE USEFUL TO DEFINE, FOR THE RECORD, TWO OF THE TERMS UNDER DISCUSSION - FRAUD AND MALFEASANCE.

AS THE STATE DEPARTMENT USES THE TERM, PASSPORT AND VISA FRAUD APPLIES TO ACTIVITIES WHICH ARE UNRELATED TO OFFICIAL RESPONSIBILITIES OF DEPARTMENT EMPLOYEES. EXAMPLES ARE THE MAKING OF A FALSE STATEMENT OR USE OF FRAUDULENT IDENTITY IN APPLICATION FOR A PASSPORT OR VISA; THE FORGING, COUNTERFEITING OR ALTERATION OF A PASSPORT OR VISA; OR THE USE OR ATTEMPTED USE OF THE PASSPORT AND/OR VISA OF ANOTHER PERSON. PASSPORT OR VISA MALFEASANCE, ON THE OTHER HAND, CONCERNS ABUSE OF THEIR OFFICIAL POSITIONS OF TRUST BY DEPARTMENT EMPLOYEES. AN EXAMPLE WOULD BE THE ACCEPTANCE, FOR PERSONAL GAIN, OF SOMETHING OF VALUE BY A STATE DEPARTMENT EMPLOYEE IN EXCHANGE FOR ASSISTANCE IN THE FRAUDULENT OBTENTION OF A PASSPORT OR VISA.

THEREFORE, THE BUREAU OF CONSULAR AFFAIRS SAFEGUARDS THE PASSPORT AND VISA ISSUING PROCESS FROM EXTERNAL ATTEMPTS TO ACQUIRE OFFICIAL DOCUMENTATION THROUGH FRAUD. IT IS THE RESPONSIBILITY OF THE INSPECTOR GENERAL TO HELP PROTECT THE INTEGRITY OF THE PROCESS FROM INTERNAL MISCONDUCT BY DIRECTING OR CONDUCTING INVESTIGATIONS WHEN AN AMERICAN OR FOREIGN NATIONAL EMPLOYEE OF THE STATE DEPARTMENT IS IMPLICATED. THE OFFICE OF SECURITY PROVIDES INVESTIGATIVE SUPPORT BOTH TO THE BUREAU OF CONSULAR AFFAIRS AND THE OFFICE OF THE INSPECTOR GENERAL IN MEETING THEIR RESPECTIVE MANDATES REGARDING FRAUD AND MALFEASANCE.

IN ADDITION, THE INSPECTOR GENERAL HAS IMPORTANT OVERSIGHT AUTHORITY TO REVIEW AND EVALUATE THE EFFECTIVENESS OF THE BUREAU OF CONSULAR AFFAIRS AND OFFICE OF SECURITY PROGRAMS TO PREVENT AND DETECT PASSPORT AND VISA FRAUD. THIS RESPONSIBILITY FLOWS FROM THE STATUTORY REQUIREMENT FOR THE INSPECTOR GENERAL TO EVALUATE THE ADMINISTRATION OF THE ACTIVITIES AND OPERATIONS OF FOREIGN SERVICE POSTS, BUREAUS AND OTHER OPERATING UNITS OF THE DEPARTMENT OF STATE.

I WOULD LIKE TO TURN NOW TO THE SPECIFIC QUESTIONS IN YOUR LETTER OF AUGUST 24, 1982:

QUESTION A. (WHAT ARE) THE RESOURCES COMMITTED TO INVESTIGATING STATE DEPARTMENT EMPLOYEES WHO MAY BE INVOLVED WITH PASSPORT AND VISA FRAUD SCHEMES?

ANSWER. THE OFFICE OF THE INSPECTOR GENERAL HAS AN ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS WHO RECEIVES AND EVALUATES ALLEGATIONS OF EMPLOYEE MALFEASANCE TO DETERMINE IF THEY MERIT INVESTIGATION, THAT IS, WHETHER:

- ACTUAL CRIMINAL ACTIVITY IS ALLEGED AS OPPOSED TO WASTE, INEFFICIENCY OR MISMANAGEMENT; AND

- THERE IS SUFFICIENT SPECIFICITY TO THE ALLEGATION TO PROVIDE A BASIS FOR OPENING AN INVESTIGATION. BASED UPON THIS REVIEW THE ASSISTANT INSPECTOR GENERAL REFERS SUBSTANTIVE ALLEGATIONS TO THE OFFICE OF SECURITY FOR INVESTIGATION. NON-SPECIFIC OR UNSUBSTANTIAL ALLEGATIONS ARE REFFERED TO THE INSPECTION STAFF FOR THE USE OF INSPECTION TEAMS IN INSPECTING THE POST CONCERNED.

THE ASSISTANT INSPECTOR GENERAL, SUPPORTED BY LEGAL COUNSEL, REVIEWS COMPLETED INVESTIGATIONS. DEPENDING ON THE FINDINGS IN THE INVESTIGATIVE REPORT, HE REFERS THE MATTER TO THE JUSTICE DEPARTMENT AND/OR THE DIRECTOR GENERAL OF THE FOREIGN SERVICE, CLOSES THE FILE WITHOUT FURTHER ACTION OR, IF APPROPRIATE, REFERS THE MATTER TO HOST COUNTRY AUTHORITIES.

COLLABORATION BETWEEN THE OFFICE OF THE INSPECTOR GENERAL AND THE OFFICE OF SECURITY (SY) IS BASED UPON AN INTEROFFICE SUPPORT AGREEMENT, SIGNED BY MYSELF AND THE DEPUTY ASSISTANT SECRETARY FOR SECURITY ON SEPTEMBER 9, 1981. UNDER THAT AGREEMENT, THE OFFICE OF SECURITY'S WORLDWIDE NETWORK OF REGIONAL SECURITY OFFICERS AND INVESTIGATORS IS AVAILABLE, AS NEEDED, TO CONDUCT PASSPORT AND VISA MALFEASANCE INVESTIGATIONS UNDER THE DIRECTION OF THE INSPECTOR GENERAL. IN ADDITION, TWO SY OFFICERS EXERCISE FULLTIME CONTROL AND MANAGEMENT OF THESE CASES. THIS DIVISION OF RESPONSIBILITY IS WORKING. IT CAN BE IMPROVED, AND MY STAFF AND THE OFFICE OF SECURITY ARE CURRENTLY ENGAGED IN DISCUSSIONS OF WAYS TO IMPROVE THE CURRENT SYSTEM BY WHICH THE OFFICE OF SECURITY INVESTIGATES IG SPONSORED CASES.

QUESTION B. (WHAT ARE) THE RESOURCES COMMITTED TO INVESTIGATING FRAUDULENT STATMENTS MADE BY FOREIGN APPLICANTS IN SUPPORT OF VISA REQUESTS?

ANSWER. AS I NOTED IN MY OPENING REMARKS, THE BUREAU OF CONSULAR AFFAIRS HAS RESPONSIBILITY FOR COMBATTING VISA FRAUD AND THE INSPECTOR GENERAL ONLY BECOMES INVOLVED WHERE EMPLOYEE MALFEASANCE IS CONCERNED. THEREFORE, I DEFER TO THE ASSISTANT SECRETARY FOR CONSULAR AFFAIRS TO RESPOND TO THIS QUESTION.

QUESTION C. (WHAT ARE) THE ACTIONS TAKEN TO REVIEW AND IMPROVE PROCEDURES BY WHICH STATE DEPARTMENT PERSONNEL ISSUE VISAS AND PASSPORTS?

ANSWER. THE DEVELOPMENT AND IMPLEMENTATION OF PROCEDURES FOR THE ISSUANCE OF VISAS AND PASSPORTS IS THE RESPONSIBILITY OF THE BUREAU OF CONSULAR AFFAIRS AND THE ASSISTANT SECRETARY FOR CONSULAR AFFAIRS HAS DESCRIBED FOR YOU THE ACTIONS HIS BUREAU HAS TAKEN. THE OFFICE OF THE INSPECTOR GENERAL, OF COURSE, HAS AN OVERSIGHT REPONSIBILITY TO REVIEW AND EVALUATE THE IMPLEMENTATION AND EFFECTIVENESS OF THOSE PROCEDURES. THIS IS ACCOMPLISHED THROUGH PERIODIC INSPECTIONS OF POSTS OVERSEAS AND OF THE BUREAU OF CONSULAR AFFAIRS AND ITS OPERATING UNITS.

WHENEVER AN OVERSEAS POST IS INSPECTED, FOR EXAMPLE, ONE OR MORE INSPECTORS EVALUATE THE MANAGEMENT OF THE CONSULAR SECTION AND CONSTITUENT POSTS TO ASSURE COMPLIANCE WITH REGULATION AND LAW IN THE ISSUANCE OF VISAS AND PASSPORTS.

QUESTION D. (WHAT IS) THE RELATIONSHIP BETWEEN THE OFFICE OF THE INSPECTOR GENERAL AND CONSULAR PERSONNEL DURING THE COURSE OF A PASSPORT OR VISA FRAUD OR MALFEASANCE INVESTIGATION?

ANSWER DEPARTMENT OF STATE EMPLOYEES WHO BECOME AWARE OF ACTIVITIES WHICH MAY CONSTITUTE PASSPORT OR VISA MALFEASANCE OR WHO RECEIVE ALLEGATIONS OF SUCH MALFEASANCE FROM ANY SOURCE ARE INSTRUCTED TO REPORT THIS INFORMATION IMMEDIATELY TO THE DEPUTY CHIEF OF MISSION, THE AMBASSADOR, OR PRINCIPAL OFFICER FOR REFERRAL TO THE INSPECTOR GENERAL. EMPLOYEES MAY ALSO REPORT DIRECTLY TO THE INSPECTOR GENERAL. THE ONLY OTHER PERSONS AT AN OVERSEAS POST WHO MAY BE INFORMED OF SUCH ALLEGATIONS ARE THE REGIONAL SECURITY OFFICER AND THE SUPERVISORY CONSULAR OFFICER, IF THEY ARE NOT THE SUBJECT OF THE ALLEGATION. THE INVESTIGATING SECURITY OFFICER OR INSPECTOR FROM THE INSPECTOR GENERAL'S OFFICE AND THE SUPERVISORY CONSULAR OFFICER ARE, IN MOST INSTANCES, THE ONLY PERSONS DIRECTLY INVOLVED IN INVESTIGATIONS OF PASSPORT AND VISA MALFEASANCE. THE SUPERVISORY CONSULAR OFFICER PROVIDES EXPERT ASSISTANCE AND SUPPORT TO THE INVESTIGATING SECURITY OFFICER OR INSPECTOR, AS REQUESTED. THE CONDUCT OF THE INVESTIGATION REMAINS, AT ALL TIMES, UNDER THE DIRECTION OF THE OFFICE OF THE INSPECTOR GENERAL.

QUESTION E. (WHAT IS) THE INSPECTOR GENERAL'S POLICY ON THE CONDUCT OF EMPLOYEE MALFEASANCE INVESTIGATIONS AT CONSULAR POSTS?

ANSWER THE OFFICE OF THE INSPECTOR GENERAL, IN COLLABORATION WITH THE OFFICE OF SECURITY, INVESTIGATES ALLEGATIONS OF MALFEASANCE AGAINST U.S. GOVERNMENT EMPLOYEES, BOTH AMERICANS AND FOREIGN NATIONALS AS I DESCRIBED EARLIER IN MY REMARKS.

IN ORDER TO ASSURE THAT ALL INVESTIGATIONS ARE CARRIED OUT IN THE MOST FRUITFUL AND PROFESSIONAL MANNER THEY ARE GUIDED AND MONITORED BY THE ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS UNDER MY DIRECTION AND WITH THE SUPPORT OF LEGAL COUNSEL. WE HAVE DEVELOPED DETAILED INSTRUCTIONS FOR INSPECTORS TO FOLLOW, BOTH IN THE FIELD AND IN THE DEPARTMENT, WHENEVER THEY ENCOUNTER ALLEGATIONS OR INFORMATION INDICATING EMPLOYEE MALFEASANCE. THOSE INSTRUCTIONS ARE DESIGNED TO ASSURE THAT ANY ACTION TAKEN IS IN SUPPORT OF ANY SPECIAL INQUIRY OR INVESTIGATION WHICH MAY BE UNDERTAKEN. THEY ARE REINFORCED BY PERIODIC TRAINING SESSIONS PROVIDED BY EXPERT INVESTIGATIVE PERSONNEL AND JUSTICE DEPARTMENT PROSECUTORS.

DURING THE TWELVE MONTHS ENDING SEPTEMBER 1, 1982, (OR APPROXIMATELY ONE YEAR AFTER CONCLUDING THE S/IG - SY SUPPORT AGREEEMENT) WE REFERRED 61 CASES OF ALLEGED PASSPORT OR VISA MALFEASANCE TO SY FOR INVESTIGATION. AT THE TIME WE ENTERED INTO THE AGREEMENT THERE WERE 41 CASES PENDING. OF THE TOTAL OF 102 CASES, 48 ARE CURRENTLY PENDING (THREE WITH THE JUSTICE SYSTEM) AND 54 HAVE BEEN CLOSED WITH THE FOLLOWING RESULTS:

38 ALLEGATIONS WERE NOT SUBSTANTIATED; AND
16 WERE SUSTANTIATED WITH THE RESULT THAT:
    1 AMERICAN EMPLOYEE WAS CONVICTED; and
    16 FOREIGN SERVICE NATIONALS WERE FIRED.

MR. CHAIRMAN, I HOPE MY COMMENTS HAVE BEEN RESPONSIVE TO YOUR QUESTIONS.

THANK YOU

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